

10 L2
578 13.
11
TRIAL

OF

T. MILWARD OLIVER,

AT

STAFFORD SUMMER ASSIZES, 1797,

BEFORE THE

Honourable Baron Perryn,

FOR THE

MURDER of Mr. JOHN WOOD,

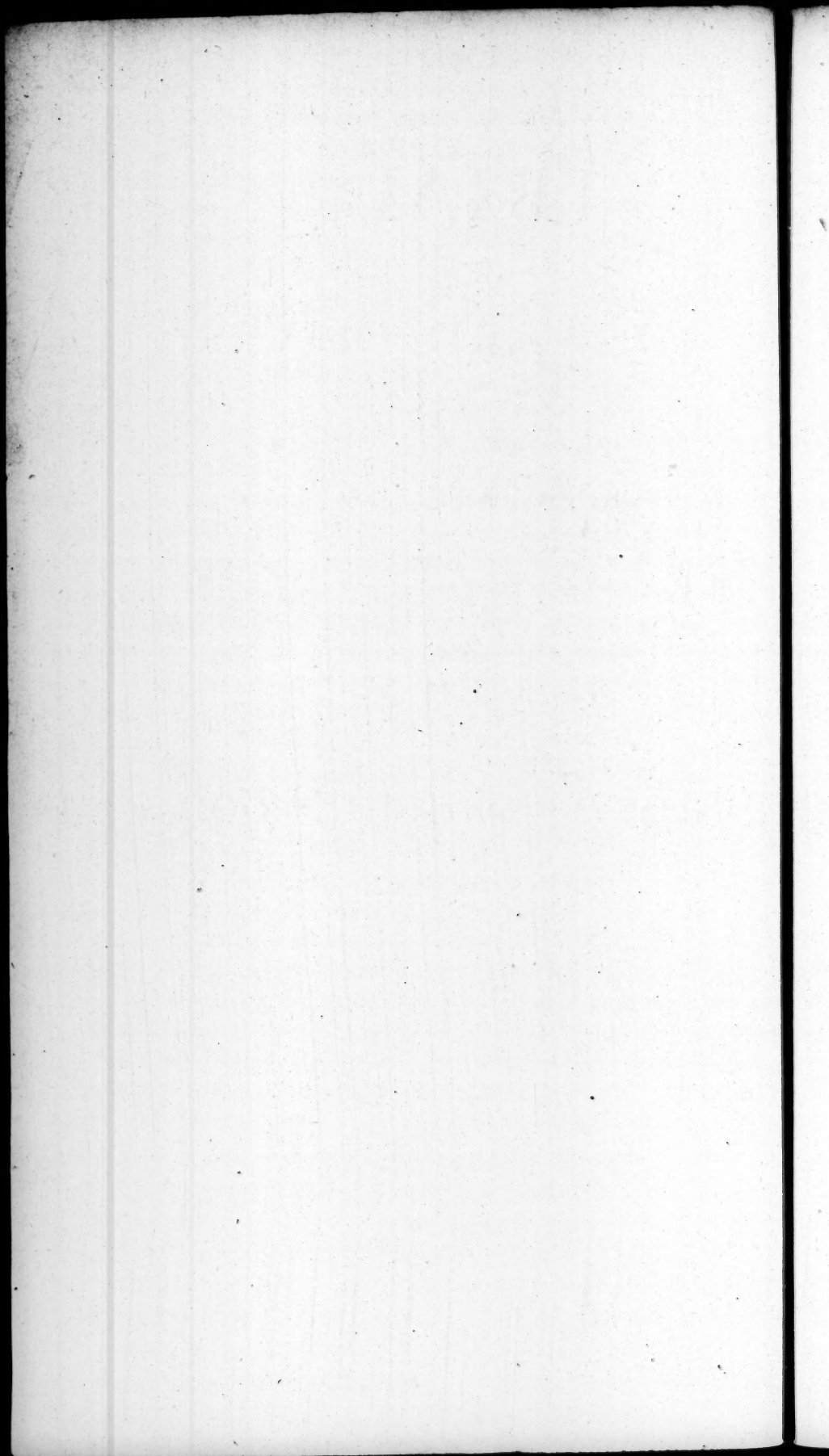
An Eminent Potter,

OF BROWNSHILL, IN THE COUNTY OF STAFFORD.

STAFFORD, printed and sold by J. DREWRY, at the office of the *Staffordshire Advertiser*; sold also by T. KNOTT, Lombard-street, London, and all other Bookfellers.

Price 1s. 6d.

[ENTERED AT STATIONER'S HALL.]



Counsel for the Prosecution.

Mr. LEYCESTER,
Mr. KNOWLES,—and the
Hon. R. RYDER.

ATTORNEY,
Mr. T. SPARROW, Newcastle.

Counsel for the Prisoner.

Mr. PLUMER,
Mr. MILLS,—and
Mr. JERVIS.

ATTORNEY,
Mr. BRETTELL, Stourbridge.

7.

T

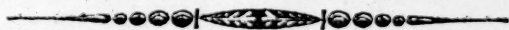
of
M
sta
be
all
lav
lea

fo
all
be
ha
ru
no
it
at
gr

TRIAL

OF

THOMAS MILWARD OLIVER.



THE indictment was read, and opened by Mr.
RYDER.

Mr. KNOWLES.—My Lord, and Gentlemen of the Jury,—In the *absence of my learned friend, Mr. Leycester, the painful task devolves to me, of stating to you what will be the evidence which will be adduced before you, in support of the charge alledged against the prisoner at the bar. What the law is upon that evidence you will hear from the learned Judge.

Gentlemen, I perceive by the great number of persons now assembled in this court, that the crime alledged against this unfortunate man who now stands before you, has attracted very considerable attention: having stood over from the last assizes to the present, rumour has had time to spread all over this county; nor has it indeed been confined there—the great noise it has made has reached even to where I reside, though at a very considerable distance from this place. Paragraphs have been inserted in the public papers, which

* At the commencement of the trial, Messrs. LEYCESTER & PLUMER were absent.

B

would

would have been far better avoided, but which in the present constitution of this country, I am afraid it is impossible to prevent. Gentlemen, you will lay aside all impressions made by what you have heard, or may have chanced to read ; you will discard them wholly from your minds, whether they are for or against the prisoner ; they form no part of that jurisdiction which is, and ought, to try and determine the fate of this unhappy man.

(Mr. Mills informed Mr. Knowles that the principal tenor of these paragraphs were adverse to the prisoner.)

Gentlemen, I am always happy to receive information ; the tenor of these paragraphs I now understand has in general been adverse to Mr. Oliver.—I am sorry for it, and could I lend any aid towards the punishment of those who have inserted them, I would with pleasure do it ; the unfortunate situation of the prisoner ought to have prevented them. But you, gentlemen, will judge the prisoner by the law of your country : the evidence in so serious a case will, (I doubt not) be seriously attended to,—and, though you considerate the man, you will meet your duty with firmness, and with that resolution which is due to your Country—to Justice—and Yourselfes.—You will determine as the evidence you will hear, and the law, (which the learned Judge who presides in this court will lay before you) shall apply.

Gentlemen, having made these few observations, I shall now proceed to state to you what will be the evidence which will be brought before you in support of this prosecution. The deceased was Mr. John Wood, who resided at Burslem in this county.—a good, an amiable, a worthy and benevolent man.—About 5 years ago the prisoner (Mr. Oliver) came to Burslem to settle as a surgeon and apothecary ; he came well recommended—as a man of good character,

of found and perfect understanding; he met with success in his profession—he exercised it with reputation, and without reproach, untill the unfortunate transaction took place which caused the death of Mr. Wood. I say, gentlemen, Mr. Oliver came recommended in such a way as to attract attention, and his manners and behaviour were such as to gain esteem: he accordingly did attract the attention and friendship of one who most unquestionably lost his life through him: Mr. Oliver attended the family of Mr. Wood in his professional capacity—they became intimate—he visited Mr. Wood as a neighbour, as a friend.—Mr. Wood's family, gentlemen, consisted of several children—one daughter attracted the attention of the prisoner—he wished to pay his addresses to her;—this was not agreeable to Mr. Wood's family; a reserve took place on the part of Mr. Wood towards the prisoner, and about twelve months before Mr. Wood's death, Mr. Oliver was requested to discontinue his visits; this request was made by Mr. Wood. Gentlemen, sometime afterwards, Mr. Wood, understanding that Mr. Oliver's acquaintance with his family had not been so compleatly broken as he wished, was desirous to discharge his claims as an apothecary: three quarters of a year before his death, he sent a servant to Mr. Oliver's for his bill, that he might pay it, and that all communication with the family might entirely cease; Mr. Oliver did not send the bill; Mr. Wood sent again for it; the answer returned was, that it was not made out.

Gentlemen, on the 22d of January last (this is a matter which will be in evidence before you—Mr. Wood, Gentlemen, received his mortal wound on Friday the 27th, and on the Sunday preceding that day, on the 22d of that month) Mr. Oliver applied to Mr. Lakin, a near neighbour, and requested the loan of a pair of pistols; and he, knowing Mr. Oliver,

being indeed particularly acquainted with him, lent him the pistols, not having any suspicion of his making an ill use of them.—Mr. Oliver then said, you have moulds for casting bullets, lend me those; these Mr. Lakin also lent, without hesitation, from the good opinion he had then of Mr. Oliver.—On Friday the 27th (five days after he had borrowed the pistols) Mr. Oliver came to Mr. Wood's about eight o'clock in the morning; he was first seen by a servant—Mr. Wood was then in bed—the servant went to the chamber door, and told him that Mr. Oliver was in the house.—Instead of going down to Oliver, Mr. Wood went to his Compting House; his foreman (whose name is Bathwell) was there—he told him Mr. Oliver was in the house.—Mr. Wood sent him to desire Mr. Oliver would come to the Compting House if he had any business with him—Bathwell went with this message to Mr. Oliver, who declined going to the Compting House, but said he would wait till Mr. Wood came in.—Finding it difficult to get Oliver from the house, Mr. Wood requested Bathwell to go into the house with him; they accordingly went together into the house, and found Mr. Oliver there. The usual compliments of “Good morning” and “How do you do,” were passed on both sides.”—I must now, Gentlemen, request your particular attention. —After the salutations I have mentioned, Mr. Oliver said to Mr. Wood, “You have made my life miserable.”—this Mr. Wood denied: “Sir,” said Mr. Oliver, “you at first gave me encouragement.”—Mr. Wood replied, “No, never encouragement; I made you welcome to my house, but never any other encouragement.”—The prisoner then threw down his bill, and said, “there's my bill.”—Mr. Wood took up the bill, and gave it to Bathwell to pay—(*Bathwell usually paid the bills.*)—Bathwell was preparing to pay the bill—Oliver then presented a
pistol

pistol to Mr. Wood, and said, "here, take this."—With what view he presented this, you, Gentlemen, are to judge;—he had another, and whether you therefore think he intended to fight a duel, or whatever was the cause of his so doing, you must judge.—Mr. Wood refused the pistol.—Without saying another word—without waiting an instant, he (the prisoner) immediately discharged the pistol at Mr. Wood—the ball struck him on the breast—(Gentlemen, I cannot immediately now say which breast, but that is immaterial)—the ball passed the ribs, entered and went through the lungs, and lodged in the cavity of the breast.—Mr. Wood immediately clapt his hand to his breast, and said, "I am shot."—Gentlemen, I must again request your particular attention.—In the confusion and alarm which this unfortunate scene consequently produced in Mr. Wood's house, unknowing what was best, but willing to administer every relief, Mr. Wood, jun. (who had entered the room, and seen the situation of his father) went and brought some brandy to apply to the wound;—the prisoner then made an observation which will be extremely material for you to notice—On seeing the brandy, Mr. Oliver said, "Neither brandy, nor any thing else, can save him, or do him good."

Gentlemen, before Mr. Wood, jun. came into the room, (immediately after he had shot Mr. Wood) Mr. Oliver passed the other pistol from his left hand to his right, and pointed it at Bathwell; fortunately Bathwell perceived this movement, and immediately sprung on the prisoner, seized him by the arms, threw him on a chair, and wrested the pistol from him;—this, on a servant maid entering, Bathwell desired her to take away, but she was so much and so dreadfully alarmed, that she could not—she durst not attempt to secure it; young Mr. Wood afterwards did.

Gentlemen,

Gentlemen, on the prisoner's seeing the wound as I before mentioned, he could as a surgeon form a judgment of that wound; he knew death must be the consequence.—In a short time after he had discharged the pistol, he seemed to have recovered his recollection, for he said, “ Good God! what distress have I brought on this family and myself—how could I do so!”—Gentlemen, I do not bind myself to prove these were the express words the prisoner made use of—but they were to this effect: this is what I am instructed to say to you.

It seems, Gentlemen, astonishing, when we consider the situation and nature of the wound Mr. Wood had received, that it was not followed by instant death; but this unfortunate gentleman languished till the Monday following, three days after the wound was given.—Mr. Coombe, a neighbouring surgeon, was sent for; he did not attempt to extract the ball, because he was convinced the attempt would cause more pain to Mr. Wood, and could not prolong his life; but after Mr. Wood's death he did open the body; he found the ball lodged in the cavity of the breast—that cavity was filled with blood, which soon produced a mortification, and of course Mr. Wood's death; and it is therefore without dispute that he died in consequence of the wound he had received from the prisoner.

Gentlemen, the learned Judge will tell you, that when the fact that the prisoner has been guilty of the death of another in the way I have stated, is proved, he must be, and is guilty of Murder.—If this crime can be lessened to Manslaughter, the cause must appear from the prisoner's evidence, unless the evidence for the prosecution should itself shew this to be the fact.—It may be told you, that killing another, though without any apparent provocation, may be the impulse of the moment, and not proceed from settled malice;

malice ;—the law, Gentlemen, presumes malice, unless there is some immediate provocative act on the part of the person destroyed, or some justifiable excuse from self-preservation, or otherwise, on the part of the destroyer.—But that neither of these were the case in the present instance, you will have no doubt ;—if therefore some other cause is not proved before you, the prisoner is most undoubtedly guilty of MURDER.

Gentlemen, I will now state to you what I suppose will be the evidence adduced on the part of the prisoner ; and if, by that evidence, shall be proved the plea which it will be brought forward to support, it will undoubtedly be a proof of the innocence of the prisoner. The abilities of my learned friends (and give me leave to say the prisoner could not have chosen men of greater abilities as his counsel)—their utmost exertions will most certainly be made to convince you of the truth of this plea ;—what I suppose that to be, Gentlemen, is, “ that the prisoner was deranged in his mind,” and of course cannot be guilty of this murder, because he did it unknowingly, and therefore innocently.—If this was so, it must appear by the evidence ;—but if this was the case, it must have been suspected, and if suspected, must have been a death-blow to that profession of which till this unfortunate transaction he was in full exercise ; this renders the plea of insanity improbable, but certainly not impossible.

Gentlemen, there is one kind of derangement of the mind that is constant, and from the birth ; this is where the person is an idiot—but this will not be contended to have been the case with the prisoner ; if it had, he could not have carried on his professional business, that would have been impossible :—the derangement, therefore, for which the prisoner’s counsel will contend (if they contend any) will be that of Lunacy—

Lunacy—where at times a person may be peculiarly blest with reason, and at times deprived by Providence of all reasoning faculties.—Gentlemen, I will tell you what Lord Chief Justice Hale (a man well learned in the law of this land) lays down as the law in that case, “that where the faculties are at times suspended, it is only during those times that he is excused; if therefore a man is a lunatic, and commits an offence against the laws, he cannot be acquitted of that offence, unless it be proved that he was *at the time* under the dominion of insanity;”—that is, Gentlemen, that it is not sufficient to prove that the offender is at times deprived of his reason, but it must be shewn that he was so at the instant of committing such offence.—The same authority, Gentlemen, also tells us, (as mentioned on some State Trials, where every nerve was strained, and exertion made, on behalf of the unfortunate persons) that the proof of insanity must be unequivocal and plain, not idle suppositions, or vague proofs, but certain and determinate.—Gentlemen, the evidence must clearly prove this; a man who entertains an intention of destroying another may shew many incoherences, but the want of reason must be proved at the very hour when the crime was committed; and unless that want can be proved to have existed at the time, it will not avail to say that it was felt at other times.

Gentlemen, I now call your attention to a very important fact—the time when a disagreement had taken place between Mr. Wood and Mr. Oliver as to his paying his addresses to Miss Wood:—after that time, Gentlemen, the prisoner could not visit Mr. Wood’s family as before; he must look for some excuse:—on the day when the unhappy transaction which caused Mr. Wood’s death, took place, he found what, of itself, was a fair and honorable pretext for such a visit—the bill due to him from Mr. Wood;—

that

that bill which had been so long before enquired for, was by him brought to Mr. Wood ;—but, Gentlemen, are the instruments of death necessary to be taken to receive payment of a bill ? Had these been lying in his way, and been caught up suddenly, it might have shewn the impulse of a disordered mind, incapable of resisting a sudden impresson, made by the unexpected sight of such instruments ; but, was this the case ? No, Gentlemen, they had been in his possession several days ; he had borrowed them, and at the same time had borrowed the moulds wherewith to make the bullets ; so that there seems a regular progression from the time of borrowing them till the time the dreadful use is made of them, for in all probability part of the intermediate space had been employed in making that bullet which caused the death of Mr. Wood. The pistols are brought prepared for the purposes of death—does this shew a sudden and unthought-of impulse ?—Is this shewn in the conversation between them, a conversation which appears a reasonable one ? You will also take notice what was his conduct afterwards, as a medical gentleman ;—he is told that remedies are about to be applied ; he knows what the result of the wound must be ; he tells them, what as a surgeon he was well warranted in telling them, “ that nothing can prevent the consequences.” Is not this a proof that he knew right from wrong ?—an additional proof of this is given by him, immediately after he recovers his recollection, when he said, “ What distress have I brought upon this family and myself ! How could I do so !” Is this the act of a mind deprived of reason ? Is this the expression of a lunatic ?—Gentlemen, if you can draw your minds to that conclusion ; if at that hour you believe that the prisoner was deprived of his reason, and incapable of judging whether he was acting right or wrong, undoubtedly he is innocent, and you will—

C

you

you must acquit him. But if you think otherwise, whatever commiseration, whatever pity you may feel for the unhappy prisoner at the bar; however painful the task (and painful it must be both to you and me) it is your bounden duty—a duty you are sworn to observe, and which I doubt not you will discharge, and discharge with firmness; I say, Gentlemen, it will then be your duty to find the prisoner guilty.—The consequences of this verdict do not rest entirely here—mercy is lodged in other hands, where an application for it never yet failed, if circumstances admit of its being exercised.

Gentlemen, it is not for me, as yet, to prove that the prisoner was possessed of reason; the law supposes every man possessed of it until the contrary is proved.—If evidence is set up to prove the plea of insanity, I have evidence to rebut that plea; if they should set up this plea as an excuse for this murder, I shall shew you that the prisoner was possessed of reason, and this I shall clearly prove to you to so late a date as the evening before the fact was committed. But I shall reserve that right to myself till after they have produced and examined their witnesses:—the law, as I before stated, supposes every person sane until proved to be otherwise.

These, Gentlemen, are the facts which I shall prove before you, and on which you are to bestow your serious, sober, and solid consideration; and on serious, sober, and solid consideration only, should you form your judgment, discarding from you any ideas you may have pre-formed (if I may use the expression) whether the prisoner did or did not know right from wrong, otherwise than as shall be proved to you by evidence.

Mr. MILLS.—Gentlemen, my learned friend has properly and accurately stated to you what is our defence. He apprehended it distinctly and rightly;—

it

it is the defence which on the part of the prisoner we shall lay before you. We contend that he was not capable of committing such an act if he had possessed his sound senses. I state this to save time—but if they attempt to make Mr. Oliver responsible for this unfortunate act, in which the will had no concern, in justice and in humanity they ought to give the prisoner a right to reply to the evidence they adduce. If therefore they do not call these evidence before, I shall certainly object, and do object, to their calling them after the prisoner's evidence.

COURT.—Mr. Knowles, you need not give yourself the trouble to reply. The law you have accurately stated; a person is always supposed to be sane till proved to be otherwise; and if insanity is attempted to be proved on the part of a prisoner, the prosecutor has an undoubted right to rebut that proof by evidence afterwards; for were it otherwise, he might be surprized by a plea, and have no means of resisting it. I shall therefore certainly admit your evidence.

(Here was some conversation between his Lordship and Mr. Mills, as to a similar proceeding on Lord Ferrers's Trial, but the Court continued of the same opinion.)

Evidence for the Prosecution.

Mr. THOMAS LAKIN.

(Examined by Mr. Ryder.)

Q. Where do you live?—A. At Burslem.

Q. Are you acquainted with the prisoner at the bar?—A. Yes.

Q. He also lived at Burslem, I believe?—A. He did.

Q. At what distance from you?—A. About five or six hundred yards.

Q. How long have you known him?—A. About four years.

Q. Is it about that time since he came to reside in that part of the country?—A. I think it is.

Q. Then you have known him ever since he resided there?—A. Nearly.

Q. What is his profession?—A. A surgeon and apothecary.

Q. Has he acted in that profession during his residence at Burslem?—A. He has.

Q. Do you know any instances of his having so acted?—A. Yes, he has attended me.

Q. I presume he attended you properly?—A. Yes.

Q. You know him well, I believe—are well acquainted with him?—A. I am.

Q. Do you recollect any transaction which took place between you and him on the 22d of January last?—A. I do.

Q. Where?—A. At my own house.

Q. Please to state what that transaction was?—

A. He came to my house about half past one in the day—I invited him to go into the parlour, as I had then the hair-dresser with me.

Q. Did he tell you what he called upon you for?—A. Not immediately—so soon as the hair-dresser

was

was gone, I went into the parlour to him—he asked me to lend him my pistols—I made a slight objection, saying, one is out of order, the other was just come from Birmingham from being repaired—he said they would do very well.

Q. In what were they out of order?—A. One was rusty, having hung up a long time.

Q. Well, Sir, proceed.—A. I asked him to dine with me.

Q. You need not mind that—proceed as to the pistols.—A. He said they would do very well for what he wanted. I then fetched them out of another room—when I gave them into his hand, he asked me if I had not bullet moulds.

Court. Well, Sir?—A. I told him my Lord I had.

Mr. Ryder. Did he express a wish to borrow those moulds?—A. Yes.

Court. Q. Did you lend them?—A. I did.

Mr. Ryder. Did any thing else pass?—A. I asked him for what time he should want them—he said he would help them back to me in a few days. I told him he was welcome to keep them as long as he pleased.

Court. During the whole of this conversation, and the stay he made, did you observe any marks of his being out of his senses?—A. No, not in the least.

Mr. Ryder. Should you know the pistols if you saw them again?—A. Yes.

Q. Are those them?—(the pistols were shewn the witness)—A. They are the same pistols—(and the moulds being shewn to him, witness said) I believe the moulds to be the same I lent the prisoner.

Cross-Examined by Mr. MILLS.

Q. How long was the prisoner in your house at this time?—A. Not more than half an hour.

Q. Your

Q. Your conversation led to nothing else particular?
—A. It did not.

Q. He came as any other neighbour might call, and not suspecting any thing, you made no observation as to his behaviour? —A. I did not.

Q. You say you have known him four years—during that time did he not appear to you as a man of mild manners and humane disposition?—A. Yes, he did.

Q. I believe to the poor particularly so?—A. Yes, I believe he was.

Q. His family, I believe, consisted of himself and sisters—were they not remarkably affectionate towards each other?—A. I cannot say, I was not intimate in the family, only with Mr. Oliver.

Q. You may have heard and believe so?—A. Yes, I have.

Q. For all the time you knew him, you say he was mild and affectionate in his manners and disposition? —A. Yes.

Q. I believe you saw him after the unfortunate accident?—A. I did, three days after.

Q. I understand you made use of an expression to him—did you not say, “Good God! what a use you have made of my pistols?”—A. Not precisely—I said “How could you make such a use of my pistols?”—he said —

(Stopped by Mr. Knowles.)

Court. I must think this is not the sort of testimony to be received in a trial of so serious a nature as this is.

Mr. Mills—My Lord, I wished the witness to have told you what the prisoner said—the fact is, his expression was to this purport, that “he (the prisoner) had an intention to shoot himself the day he borrowed the pistols.”

Court—I certainly do not wish to prevent any proper evidence, but suppose that you prove he had an evil intention towards himself, and afterwards diverts
it

it towards another, what service can that proof be to the prisoner ?

Mr. Mills—It is said, that the borrowing the pistols so long before, is a proof that his intentions against the deceased were not sudden—now if on asking the loan of the pistols he had said “lend them to me that I may destroy myself,” would not this have been evidence of what his intention then was—and if he afterwards expresses himself to the same purpose, why may not that evidence be received ?

Court—*Mr. Mills*, I have so good an opinion of the prisoner’s counsel, that I do not think they would ask any question they think improper—I cannot see what good this can do you ; but if *Mr. Knowles* consents, I certainly have no objection to its being put.

Mr. Knowles—I am sorry, my Lord, to object to any evidence which may have the least weight in favor of the prisoner—but I stand here bound by a sacred duty not to admit that evidence which is without precedent, and could not afterwards be refused in other cases, if admitted in this.

Mr. Mills—I give full credit to *Mr. Knowles* for all he says, on two grounds—first, I know *Mr. Knowles* ; and secondly, I am not instructed to suppose that in this prosecution any fair evidence on the part of the prisoner will be refused.

Mr. Knowles—I beg to be understood on what grounds, and for what reasons I object to this evidence.—Whatever your Lordship sitting in this Court may this day rule to be admissible evidence, will by that means be a precedent, and become part of the law—if therefore the evidence I have objected to is received, it will be impossible to convict any one of a crime, and the first law we have will be broken, which says, that no man can give evidence for himself—and the reason of this must appear evident, for were it admitted, a man has only to say, my intentions were otherwise,

otherwise, to stand excused from all criminal intentions.

Court—If such an expression had been made at the time of the transaction, it might have been evidence of the intention—but when it is made three days after the fact is committed, it certainly cannot be so—I think it cannot be received.

Mr. WILLIAM BATHWELL;

(*Examined by Mr. Knowles.*)

Q. Were you foreman to the late Mr. Wood?—

A. Yes.

Q. Are you sworn?—*A.* Yes.

Q. How long have you known the prisoner at the bar?—*A.* About two years.

Q. What way of business was he in, and where did he live?—*A.* At Burslem.

Q. What business?—*A.* A surgeon and apothecary.

Q. Who attended Mr. Wood's family in that capacity?—*A.* The prisoner Mr. Oliver.

Q. Was this before or after Mr. Wood's death?—*A.* Before.

Q. Did he continue to attend the family till Mr. Wood's death?—*A.* No, not for some time before.

Q. How long before Mr. Wood's death was it that he discontinued attending them?—*A.* It might be four or six months, I cannot say exactly.

Q. Was he intimate in the family as an acquaintance, as well as attendant on them as a professional man?—*A.* I cannot say, I did not live in the house.

Q. Was you with Mr. Wood on Friday morning when he received his death wound?—*A.* Yes, I was.

Court—*Q.* What day was this?—*A.* Friday, my Lord, the 27th of January last.

Mr.

Mr. Knowles—Did you see Mr. Oliver that day?

—A. Yes, before——

Q. Before what—before he was at Mr. Wood's?—

A. No, before the fact was committed.

Q. At what time of the day?—A. Somewhat after eight in the morning, between eight and nine.

Q. Where did you first see him?—A. In Mr. Wood's house.

Q. In what part of the house?—A. In the parlour:

Q. Was he sitting or standing—what was he doing?

—A. He was sitting in a chair in the middle of the parlour.

Q. Was he alone, or any person with him?—A. He was alone.

Q. Before you proceed any farther with this description, tell me if you knew of any thing being due to Mr. Oliver from Mr. Wood, for attendance or medicines for the family?—A. Yes, 2l. 16s.

Q. Had you been with Mr. Oliver at any time for his bill?—A. Yes, two or three times at his house, and had spoke to him for it besides.

Q. Did you see him when you went to his house?

—A. Twice I did.

Q. What did you ask for—what was the purport of what you said to him?—A. I asked for his bill, he did not give it me—the second time I saw him he said he had not wrote it out.

Q. Whose bill was it that you called for?—A. Mr. Wood's.

Q. Well now, Sir—on the 27th of January, when you saw Mr. Oliver, what did you do?—A. Mr. Wood the deceased sent me down to the house from the Compting House, to desire if Mr. Oliver had any business with him, he would come to the Compting House.

Q. Go on, Sir—did you take that message?—

A. Yes, I conveyed that message to Mr. Oliver—he

D

said,

said, "be kind enough to tell Mr. Wood, that if he is busy, I will wait till he has done."

Q. Where was Mr. Wood at this time?—A. In his Compting House.

Q. Where is that?—A. About 80 or 100 yards from the house.

Q. Did Mr. Oliver wait while you took this message?—A. He did.

Q. He said he would wait there if you would tell him?—A. Yes.

Q. Did you deliver that message to Mr. Wood?—A. Yes.

Q. What did the deceased do on your delivering that message to him?—A. He said, well, we will go down.

Q. Did he go down to the house?—A. He did.

Q. Alone, or was any person with him?—A. I went with him.

Q. Did you find Mr. Oliver in the house?—A. Yes.

Q. Was he in the same room in which he was when you delivered the message to him?—A. Yes, he was.

Q. Before or when you went into the room was any body in company with Mr. Oliver?—A. No.

Q. You three were all?—A. Yes, Sir.

Q. Now that you were there together, tell the Court what passed—speak slow and loud—A. Mr. Oliver spoke first—he said, "Good morning."—Mr. Wood said "Good morning, how do you do?"—He said immediately, "You have made my life miserable."

Q. Who said that?—A. Mr. Oliver.

Q. Mr. Oliver said that to Mr. Wood?—A. Yes.

Court—Was this in your presence?—A. Yes, my Lord, it was—Mr. Wood replied "I have not."

Mr. Knowles—How did Mr. Wood say this, passionately, or coolly and civilly?—A. He said it coolly and civilly.

Q. Well, Sir, go on with what passed?—A. Mr. Oliver said, "in the first place you gave me encouragement."

agement."—Mr. Wood said, "No, Sir, I never gave you any encouragement but as a gentleman, and made you welcome to my house."—Mr. Oliver said, "Well, Sir, here is my bill."

Q. Will you tell us how Mr. Wood made the last answer, when he said he never gave Mr. Oliver encouragement—I mean in what manner, with passion, or otherwise?—A. Without passion, coolly and mildly.

Q. What said the prisoner?—A. He said, "Well, Sir, here is my bill."

Q. Should you know that bill?—A. Yes, if I saw it.

Q. Is that it (*bill shewn*)—A. Yes, I am sure this is the same, here are my initials made on it.

Q. What then passed?—A. Mr. Wood took up the bill, and gave it me to pay.

Q. Were you the person who generally paid Mr. Wood's bills?—A. Yes.

Q. Proceed, Sir.—A. When I was going to pay him ———

Q. How *going* to pay him, was you going out of the room, or how otherwise?—A. Not going out, I was putting my hand in my pocket to take out the money, when he pulled out his pistols—he had one in his right hand, I kept my eye on that; the other was in his left hand.

Q. You saw both?—A. Yes, I did, but I kept my eye particularly on that in his right hand.

Q. Should you know that pistol again?—A. Yes.

Q. Did you mark it?—A. Yes, it is marked W. B.

Q. Is that it?—(*pistol shewn*)—A. Yes.

Q. Did you make the mark in the house, in that same room?—A. No, in the Compting House.

Q. Are you sure that is the pistol?—A. Yes.

Q. In what direction did Mr. Oliver hold it?—

A. He held it thus—(*witness here held pistol in the act*

of presenting with the muzzle from him)—and said, “Here, do you take this.”—He said this to the deceased.

Q. At the time he said to the deceased, “Here, do you take this,” how far was the deceased from him?—A. About a yard or three feet.

Q. How was it placed as to the deceased?—

A. Straight forward, thus—*(in the act of presenting as if going to fire)*—Mr. Wood refused to take it.

Q. How then did the prisoner act?—A. He dropped his hand, and rested the pistol so on the table—*(witness described this as the muzzle placed on the table, the prisoner's hand resting on the butt.)*

Q. What passed then?—A. I said, I am surprised Mr. Oliver what business you can have with such such things as these—he replied, “How do you know Mr. Wood's business, or mine?”—He then said, “I wish to die here,” and fired the pistol instantly.

Court—Did he fire instantly?—A. Yes, my lord.

Court—Did he use that expression before or after he fired?—A. Before.

Mr. Knowles—Well, Sir?—A. Mr. Wood clapt his hand on his breast, and said, “I am shot.”

Court—Did he fall down?—A. No, my lord.

Mr. Knowles—How far was Mr. Wood distant from the prisoner when the pistol was discharged?—A. He might be between three and four feet.

Q. Did you see how the pistol was held as to Mr. Wood?—A. In a direct line towards him.

Q. What part of Mr. Wood's body was in a direction with the pistol?—A. His breast.

Q. When Mr. Oliver put the pistol down as you describe, how long did he hold it?—A. About half a minute.

Q. Pointed towards the table?—A. Yes.

Q. He held it you say in that state about half a minute?—A. Yes.

Q. Was

Q. Was there a table near Mr. Oliver?—A. Yes, close up to him.

Q. What passed after Mr. Wood said he was shot?—A. Mr. Oliver laid the pistol down he had discharged, and took the other in his right hand.

Q. Should you know the other pistol if you were to see it?—A. Yes—(*pistol shewn*)—this is it.

Q. Well, Sir, what did he do with the other pistol?—A. He was fumbling with his right hand at the lock as if to cock it—it was pointed to me.

Q. Upon that what passed?—A. I sprung forward, pushed the point down, and seized him by the arms, above the elbows.

Q. Well, Sir?—A. He held the pistol in his hand behind him, and was moving it to his other hand; I slipped my hand down, knocked the pistol out of his hand, and flung him down on two chairs.

Q. Proceed.—A. I called for the maid, and directed her to take up the pistol---she was so much alarmed she durst not---when Mr. Oliver found the family was alarmed, he said, "Oh, William, what have I done!---what trouble have I brought on this family and myself!"

Q. Did prisoner say this before or after you had struck the pistol from his hand?—A. After.

Court—Did you apprehend when he presented the pistol towards you he meant to do you any injury?—

A. I cannot say---it was in a direct line.

Mr. Knowles—Did you examine whether this pistol was loaded or unloaded?—A. Not then, but I did about half an hour afterwards, in the Compting House.

Q. Was it loaded?—A. Yes.

Q. Who had it in the mean time?—A. Mr. Wood, jun.

Q. How was it loaded?—A. With a ball---the ball is in it now—(*the pistol with the ball in it was handed over, and shewn to the jury.*)

Q. After

Q. After this gentleman was secured, was any assistance given to Mr. Wood?—A. Yes, we sent for Mr. Coombe.

Q. But before you sent?—A. Yes, Mr. Wood, jun. came in with some brandy.

Q. Was prisoner there?—A. Yes.

Q. What was said?—A. Mr. Oliver said, "Neither brandy or any thing else can be of service."

Q. Well, Sir,—A. Nothing more passed, only as I had hold of his arms he put one hand into his pocket--pulled out a key, and desired me to give it to his sister.

Q. Did any thing else happen?—A. Not then, I believe Mr. Oliver has been in custody ever since.

Q. How long did Mr. Wood live after he received the wound?—A. Till the Monday following.

(Cross-Examined by Mr. Mills.)

Q. You lived with Mr. Wood?—A. No.

Q. You acted as his foreman?—A. Yes.

Q. I suppose your not living in the house was the reason why you did not know of any particular intimacy between Mr. Oliver and Mr. Wood's family?—A. Yes.

Q. You knew of such an intimacy?—A. Only from report, not from the family.

Q. Was there such an intimacy?—A. Report said so, but it was groundless.

Q. Why give your judgment if you knew not of it?—A. I did not know of it.

Q. Then why say the report was groundless---you went you say with Mr. Wood into the parlour where prisoner was?—A. Yes, I did.

Q. Was any objection made by Mr. Oliver to your coming in with Mr. Wood?—A. No, none.

Q. He did not desire you to withdraw?—A. No.

Q. Was the door open?—A. Yes.

Q. Did

Q. Did Mr. Oliver shut it?—A. No.

Q. Did he desire to have it shut?—A. No.

Q. How long was you in the room before the accident happened?—A. Six or seven minutes.

Q. You have made I believe a different report--- you have given a different account of this before?—A. No, never.

Q. You recollect mentioning this transaction to Mr. Poole?—A. Yes.

Q. I believe what you told Mr. Poole was before Mr. Wood's death?—A. It was in going to Mr. Jervis's.

Q. Do you remember any conversation between you and Mr. Poole?—A. Nothing, but he asked how it was.

Q. Do you recollect his asking you how the pistol was held, and did you not say he held it with the butt end towards Mr. Wood?—A. I did not say so.

Q. You remember telling him the same as you have said here, that Mr. Oliver said, "I wish to die in the house"?—A. Yes, he said so.

Q. That was on producing the pistols?—A. Yes.

Q. Will you recollect whether Mr. Oliver did not present the butt end ———

[Some person here exclaimed "the witness is fainting:"]

—the eyes of the whole Court were fixed on the evidence, who, from the heat, which (owing to the vast number of people assembled in the Court) was extreme, or from some other cause, fainted away, and was a considerable time before he recovered; in the mean time the windows were broken, some boards on the opposite side taken down, and curtains drawn up, which by giving more air, of course made the Court (which is yet held in the church) much cooler.]

(After the witness had recovered, Mr. Mills proceeded with his cross-examination.)

Q. Mr.

Q. Mr. Bathwell, I was going to ask you, whether you did not recollect telling Mr. Poole, that the prisoner, Mr. Oliver, presented the butt end of his pistol to Mr. Wood---I can readily allow, that in the confusion attendant on such a scene as that you had just then witnessed, you might not be so certain or collected in your information then, as you would when that confusion subsided; but I must tell you there was another person present---Mr. Bennet and Mr. Poole were together; perhaps that circumstance may bring it to your recollection.—A. I do not know Mr. Bennet.

Q. I will tell you another thing---it was as you and they were coming to Stafford with Mr. Oliver.—A. There is nothing in it.

Q. You know Mr. Poole?—A. Yes, I do.

Q. A respectable man, and I believe the peace officer to whom the prisoner was consigned---do you recollect ever having any conversation with him on this subject?—A. Yes, in the Compting House.

Q. Not elsewhere?—A. I do not.

Q. Did you not tell him that Mr. Oliver presented the butt end of the pistol to Mr. Wood?—A. I did not.

Q. That you swear positively?—A. I do.

Q. You say you were going to pay the bill---how was it?—A. I was putting my hand in my pocket for that purpose.

Q. Now tell me---did not the pistol go off as you was looking at the bill?—A. No.

Q. Did not you tell Mr. Poole so?—A. No, I did not.

Q. Upon the oath you have taken, you did not tell Mr. Poole so?—A. I never did.

Q. After Mr. Wood had been shot, was Mr. Oliver directly opposite to Mr. Wood?—A. Yes, he was.

Q. Mr. Oliver could then see where Mr. Wood put his hand?—A. Yes, certainly.

Q. He

Q. He must see it?—A. Yes.

Q. Now, Sir, you have described his handling the pistol as if trying to cock it?—A. Yes.

Q. Did you not observe that he attempted to shoot himself?—A. No such thing.

Q. Did you not tell Mr. Poole that Mr. Oliver attempted to shoot himself with the second pistol?—
A. No, no such thing.

Court—Who was Poole?

Mr. Mills—Poole, my lord, was headborough.

Mr. Mills—Now, Mr. Bathwell, you have related the manner in which this happened, but have you told us all you observed at that time?—A. Yes, except that Mr. Wood, jun. said to Mr. Oliver when he came into the room, “You are a villain;” to which Mr. Oliver replied, “I know it;” and young Mr. Wood said, “You shall suffer the law.”

Q. Did Mr. Oliver do any thing else?—A. No.

Q. Did he take any thing?—A. Not that I saw.

Q. Do you not know that he took a great quantity of opium, or something which made him very sleepy?

—A. Not that I know of.

Q. Then you do not recollect it?—A. No.

Q. Nor his putting his hand to his mouth?—
A. No such thing.

Q. I believe no dispute had happened between him and you?—A. None at all, we never quarrelled in our lives.

Q. And your opinion now is, that without any enmity against you, without any dispute having happened between you, he was going to shoot you?—

A. The pistol was towards me.

Q. You thought at that time he was going to shoot you —A. I was in fear so.

Q. You have described the thing as happening so contrary to your expectations, that though you saw

E

the

the prisoner take out his pistols, you never interfered?

—A. Yes.

Q. You were astonished at it?—A. I was.

Q. If you had suspected the prisoner's intention, had you not sufficient time to have prevented it?—

A. Yes.

(*Re-Examined by Mr. Knowles.*)

Q. Did Poole or you begin this conversation?—

A. Poole, not me.

Q. Were not Mr. Poole and Mr. Oliver intimate acquaintance---friends?—A. I thought so.

Court—Why did you think so?—A. Because he interested himself in the business, and took the pistols.

Mr. Knowles—Were you and Mr. Oliver on good terms?—A. Yes.

Q. You had no reason to be at enmity with him?

—A. None, nor he with me.

MATTHEW CUNLIFF.

(*Examined by Mr. Leycester.*)

Q. I believe you were a servant to Mr. Wood?—

A. Yes.

Q. Did you live with him at the time the accident happened?—A. I worked for him.

Q. Did you hear any thing on that day?—

A. I heard the report, and went into the house--- I saw young Master Wood---he said ---

Mr. Plumer—Was the prisoner present?—A. No.

Mr. Plumer—Then do not tell us what was said in his absence.

Mr. Leycester—Did you see the prisoner?—A. Yes, I went for the pistol out of the room.

Q. Did you fetch the pistol out of the room?—

A. No.

Q. Where

Q. Where did you first see the prisoner?—A. In the room with William Bathwell---in the room where my master was shot.

Q. How do you know that?—A. They told me so.

Q. Who was there?—A. William Bathwell.

Q. Where was the prisoner?---A. He stood with William Bathwell.

Q. Did the prisoner ask you any thing?---A. Yes, he asked me if Ralph Johnson was come.

Q. What else?---A. I said, "I have not seen him:?" ---He then said, "Ralph Johnson knows I have had these pistols ever since Sunday; I borrowed them on Sunday."

Q. What did you say to him?--A. Nothing, but he said to me, "Good God!" what distress have I brought on this family!---what could induce me to shoot Mr. Wood?"---I asked him if there was any help for Mr. Wood.

Q. What answer did he make to that?---A. He said, "No, there is not---it is too late---there is no chance left."

(Cross-Examined by Mr. Plumer.)

Q. Was you an acquaintance of the prisoner?---A. No.

Q. A stranger?---A. Yes.

Q. So though a stranger he talked thus to you ---A. He did talk so.

Q. You said he was standing, did he offer to go away?---A. He did not.

Mr. COOMBE.

(Examined by Mr. Ryder)

Q. I believe you are a surgeon?---A. Yes.

Q. Did you see Mr. Wood the deceased at any time

time?---A. Yes, on Friday the 27th of January last, about nine o'clock, I was sent for to Mr. Wood:

Q. In what state did you find him?---A: I found him sitting in a reclining posture on the bed.

Q. At what time of the day?---A. About 9 in the morning.

Q. In what situation?---A. Half sitting, half lying, supported by Pillows and Assistance. Upon examining his Breast, I found the Ball had penetrated the cavity of the right side of the Breast.

Q. How long did Mr. Wood live?---He died about eleven o'clock on Monday morning.

Court.---He lived till Monday morning?---A. He did my Lord,

Court.---Did you extract the ball at that time?---A. I did not attempt it, as it was impossible to know in which cavity of the Breast it was lodged.

Mr. *Ryder.*---What was the cause of Mr. Wood's death?---A. I opened the Body on Tuesday, and found the ball lodged in the lower part of the right cavity of the Breast,

Q. It had gone through the lower part of the right lobe of the lungs, and was lodged in the right cavity of the breast?---A. I found a considerable quantity of blood in that cavity. There was a great quantity of blood.

Q. What was the cause of his death?---A. The ball was.

Q. Did you extract it on the Tuesday?---A. Yes, There were other Surgeons with me,

Cross examined by Mr. JERVIS.

Q. Was you acquainted with Mr. Oliver; as a neighbouring practitioner, I presume you might?---A. Very slightly indeed.

Re-examined by Mr. RYDER.

Q. This is the bill made by Mr. Oliver against Mr. Wood:

Wood: is it regularly made out?---[*Mr. Coombe look'd the Bill over.*] A. It is made out in the usual way.

Mr. Lakin (the first Witness) was called to prove it the hand-writing of Mr. Oliver; but said he knew little of Mr. Oliver's hand-writing, and could not tell.

Mr. JOHN WOOD,

(*Examined by Mr. KNOWLES.*)

Q. I believe you are the Son of the deceased Mr. Wood of Burslem?—A. I am.

Q. Do you know Mr. Oliver?---A. I do.

Q. How long?---A. Three or four years.

Q. Did he attend your Father's family?---A. Yes, for some time.

Q. How long is it since he discontinued his attendance.—A. About two years.

Q. Do you mean from this time, or from your Father's death?—A. From this time.

Q. That was about a year and half before your father's death?—A. Yes.

Q. Did he visit your family as a friend?---A. He might; but first as surgeon.

Q. Did he call frequently?—A. Yes.

Q. Were those Visits discontinued by his own desire, or at the request of your father.---A. At my father's request.

Q. Do you, of your own knowledge, know why such request was made?---A. Yes; on account of his intentions with regard to my sister.

Q. Can you, of your own knowledge, say whether any application had, or not, been made for a bill from the prisoner?—A. I know of applications being made for his bill: for his medical bill.

Do

Q. Do you know the hand-writing of the prisoner?
—A. I never saw him write.

Court—Prisoner; now is the time for you to enter on your defence. What have you to say?

Prisoner.—I leave it to my evidence.

Court—I suppose he leaves it to his Counsel.

Mr. Plumer—No my Lord; to his evidence.

Evidence on behalf of the Prisoner.

Mr. JOHN ELLISON POOLE,

(*Examined by Mr. Plumer.*)

Q. Mr. Poole, do you know Mr. Bathwell?—
A. I do.

Q. Did you see him on the 27th or 28th of January last.—A. I saw him a short time after the accident happened.

Q. Did he give you any account of what had passed?—A. He did.

Q. Do you recollect whether he did or did not, say any thing as to the pistol being presented by Mr. Oliver, and in what manner it was done?—A. I particularly asked him how it was, and he told me that Mr. Oliver held the Butt-end towards Mr. Wood.

Q. Are you quite sure you can recollect his mentioning that circumstance, can you perfectly remember it?—A. I am certain of it, I made a minute of what he said that day.

Q. Was the deceased then living?—A. He was.

Q. Did Bathwell say any thing as to prisoner's having attempted to destroy himself?—A. He said he took the second pistol out of his pocket, and he supposed, with an intent to destroy himself.

Did

Q. Did Bathwell say that he thought the Prisoner meant to destroy him (*Bathwell*).—A. He said he had no thoughts, he had no idea of that.

Q. Now, Sir, do you remember if he told you what he himself was doing when the pistol was discharged.—A. He told me he was looking at the bill at that time.

Q. What did you say to him?—A. I asked him if he saw Mr. Wood shot. He said, “no; I was looking at the bill at the time the pistol was fired.”

Q. Do you recollect any thing more; I believe the prisoner was delivered into your custody?—A. He was.

Q. At the time you held this conversation, was any one else present?—A. There was not. It was in the fields. I told him I was obliged to him for telling me the particulars so fully.

Q. Do you know Mr. Bennet?—A. He was then a servant of mine.

Q. Was any thing said in his presence?—A. Not in his and mine together.

Q. Not as you came to Stafford?—No; Mr. Oliver and I were in a chaise. Bennet and Bathwell were on horse back.

Q. You were acquainted with Mr. Wood?—A. Yes.

Q. You also were with Mr. Oliver?—A. I was.

Q. Have you heard him speak of Mr. Wood with regard?—A. Yes; and as a good kind of man.

Q. When prisoner was in custody, did you search his desk, and take out any papers?—A. I did, I found some papers; one in particular; I have that in my pocket.

Q. Was the prisoner then in close confinement?—A. He was.

Q. Was the desk in his house?—A. Yes; in his bed-chamber.

Have

Q. Have you that paper?—A. Yes.

Court---Was it in the deceased's bed-chamber that you found it.—A. No, my Lord, the Prisoner's.

[*Here Mr. Poole produced the paper.*]

Mr. Plumer---Did you find any other papers.---A. Letters; but no other paper of prisoner's writing than this; it was at the top of the others; the first I saw in the desk.

Q. The top is torn off this; how came that done?—A. I shewed it to Mr. Oliver; he attempted to tear it to pieces; but I snatched it from him, and that part was then torn off.

Q. Did you see and read this paper before it was torn?—A. I did.

Q. Then you can say what was the purport of the part torn off.

Mr. *Leycester*. [Having looked at the paper.] If you think it prudent Mr. Plumer to read that paper, I have no objection.

Mr. *Plumer*. Prudent I certainly think it; but, however, as it is not legal evidence, I shall not bring it forward.

(*Cross-examined by Mr. Leycester.*)

Q. I understand Mr. Poole, you are a friend of the prisoner?—A. Yes.

Q. You said he was delivered into your custody—did not you insist on his being delivered to you?—

A. I met with the constable who had Mr. Oliver in custody, he delivered him to me, but I did not insist upon it.

Q. Who delivered the pistols to you, did the constable?—A. No, Cunliff, I desired they might be marked.

Q. Were you a constable?—A. No, I was headborough.

Were

Q. Were you sworn?—A. Yes, regularly sworn, I was sworn by Mr. Sparrow.

Q. Mr. Poole, were you present before the coroner, when the inquest was held?—A. I was, some part of the time.

Q. Were you there when Bathwell was examined?—A. Some part of the time.

Q. Were you there when he gave an account how Mr. Wood was shot?—I was.

Q. You were present and heard that account, you attended I suppose on account of the deceased?—A. I attended with the pistols.

Q. Did Bathwell then give the same account he has done this day?—A. I have not heard what he said to day.

Q. Was it the same he had given to you?—A. No.

Q. Then I suppose you told the Coroner that he differed in his account, from what he had before said?—A. I believe I did, I am certain I told the foreman of the Jury so, Mr. Sparrow said, “I will examine the witnesses, Mr. Poole.”

Q. Were you and Bathwell then present?—A. We were.

Q. Were you there when Bathwell was examined?—A. Not all the time.

Q. Mr. Poole, you have now told us some part of the account as given you by Mr. Bathwell, you say he gave it fully, now tell us the rest of the account he gave you.

Mr. Plumer—This is certainly not evidence.

Mr. Leycester—I was going to ask for the remaining part of the conversation, he has given us one part and we ought to have the whole.

Mr. Plumer—Attend to my objection; what Mr. Bathwell said to Mr. Poole most certainly would not be evidence of itself, the part Mr. Poole has given is only made evidence by the cross-examination of Bath-

F.

well,

well, who then denied having so said to Mr. Poole, it is therefore, to contradict him in those parts only which he has denied, that Mr. Poole is called ; you cannot therefore ask as to other parts, to which no application was made in the cross-examination, unless they are explanatory of those points to which Mr. Poole has been already examined.

Mr. Leycester—You are right, but it is as an explanation to the first parts that I want the remainder.

Mr. Plumer—I have no objection, you may go on.

Mr. Leycester—Mr. Poole, you have told us that Bathwell said the prisoner presented the butt-end of the pistol to the deceased, go on with the rest.—

A. He said when Mr. Oliver first called at Mr. Wood's, Mr. Wood was in bed.

Q. Only tell us what he said as to the fact itself?

—A. That Bathwell went into the room with Mr. Wood, while in the counting-house they concluded it proper to do so, that he (Bathwell) said Mr. Oliver seemed *queer*, and Mr. Wood thought they had both better go, he desired Bathwell to go with him.

Q. You say Bathwell said so?—A. Yes, he did.

Q. Go on—A. On entering the room the prisoner said, Good Morning, he presented his bill which Mr. Wood gave to Bathwell and desired him to pay it ; Mr. Oliver said " You have made my life miserable," Mr. Wood said " I have not," Mr. Oliver said, " You gave me encouragement," Mr. Wood replied, " Never—but as a neighbour I made you welcome to my house," Mr. Oliver then said it was his desire to die in the house, and presented a pistol to Mr. Wood, with the butt-end towards Mr. Wood, Mr. Bathwell told me that Mr. Oliver had been playing with the pistols a considerable time on the table, I said " Good Good, why did not you secure them," he said " I had no idea of his
thooting

shooting Mr. Wood," I asked him if he saw him shoot Mr. Wood, he said " No, I was looking at the bill."

Q. You say you made a minute of this conversation?—A. Yes, this is it. (*Minute produced.*)

Q. When did you make it—at the time the conversation passed?—A. No, that was in the fields, I made it soon after I returned home.

Court—After Mr. Wood was shot, you say you particularly asked the question, which end of the pistol was presented towards him?—Yes, I did.

Court—It was an odd question, as he could not be shot while the butt-end was towards him.

Mr. Plumer—My Lord, he says Bathwell only saw the butt-end presented, and that he did not see the deceased shot.

(*Re-examined by Mr. Plumer.*)

Q. The account Bathwell gave you was, that Mr. Oliver presented the butt-end towards Mr. Wood?

—A. It was.

Q. And that Bathwell did not see Mr. Wood shot?

—A. Certainly.

Q. You say that when he differed in his account before the Coroner, from what he told you, you informed the Coroner of it?—A. Yes, I did.

Q. Who was the Coroner?—A. Mr. Thomas Sparrow.

Q. The Attorney for this prosecution?—A. Yes.

Q. Now Mr. Poole, I will ask you as to the character of Mr. Oliver, what was it?—A. He was remarkably sober and mild, and esteemed as a very worthy man.

THOMAS BENNET,

(*Examined by Mr. Mills.*)

Q. I believe when Mr. Oliver was brought to Stafford, you rode with Bathwell?—A. Yes.

Q. You and he were on horseback, I understand, and Mr. Poole and Mr. Oliver in the Chaise?—A. Yes.

Q. Then you could not hear what they said, nor they what you said?—A. No, they could not.

Q. Had you any account of the transaction relative to Mr. Wood's death, given you by Mr. Bathwell?—A. Yes; he said he was sorry for Mr. Oliver and his family—that Mr. Oliver was come of a good family, and he was sorry he had any thing to do in the business: he said if he had thought that Mr. Oliver meant to do Mr. Wood any injury, he had plenty of time to prevent it; he said he had turned himself round to look at a bill Mr. Oliver had brought when the accident happened.

Q. Did he say he had seen the pistol fired?—A. He did not say; he said he was turn'd to the window—that when the pistol was fired, he turned round, and seeing Oliver with another pistol, he seized him and threw him in a chair.

(Cross-examined by Mr. Knowles.)

Q. Whose servant were you at that time?—A. Mr. Poole's.

Q. Was any body with you and Bathwell when this passed?—Nobody.

Q. You conversed over this business?—A. We did.

Q. He turned round you say?—A. He said so; he said he turned round—at the time the pistol was fired, he said, his back was towards them.

Q. Have you and Mr. Poole talked over this business since?—A. No.

Q. Upon your oath you say so?—A. I do.

Q. You are certain?—A. I am; I did not know of coming here till 12 o'clock last Wednesday.

Q. I do not ask you about coming here, but whether you and Poole have not conversed together on this business.—A. We have not. When

Q. When did you mention this first, and to whom?

—A. To Mr. Jackson on Wednesday last.

Q. You never mentioned it before last Wednesday?

—A. No, nor to any one but Mr. Jackson.

Q. So you knew of this—you heard Bathwell say this when Mr. Oliver came to Stafford, and never mentioned it at the last assizes, nor any time before last Wednesday?—A. No, never.

Q. Nor ever talked with Mr. Poole nor any one else about it?—A. I never did.

Q. Did you commit this conversation to paper?

—A. I did not.

Q. And yet having made no minute of it, nor ever talked of it, you recollect it perfectly; why it is 6 or 7 months since, is it not?—A. I can't say; it was the day Oliver came to gaol.

Re-examined by Mr. Mills.

Q. Did Mr. Poole hear this conversation between you and Bathwell?—A. No.

Rev. Dr. LUKE BOOKER,

(Examined by Mr. Jervis.)

Q. Dr. Booker, how long have you known Mr. Oliver?—A. About 12 years.

Q. I believe you were then curate of the parish where his father lived?—A. I was curate of Old Swinford.

Q. Where did Mr. Oliver, the prisoner, then live?

—A. He was apprentice to Mr. Causer, a surgeon of Stourbridge.

Q. Did he attend Divine Service at the parish church frequently?—A. I recollect his attending more frequently than the avocations of gentlemen of his profession usually admit.

Q. Were you frequently in company with him?

I saw

——A. I saw him often ; sometimes at his father's, sometimes at Mr. Caufer's, and sometimes at my own lodgings.

Q. What was your opinion of his manners and disposition ?——A. He was of mild manners and humane disposition.

Court—I will thank you to tell me what you mean when you say he was mild and humane.——A. I mean he was a man the most unlikely to do such an act as the one of which he stands charged, if his reason had not been impaired.

Mr. Jervis—What did you observe to be the particular cast of his temper ?——A. I recollect nothing particular, but an unusual pensiveness.

Q. Did you think him a man of sound moral and religious principles ?——A. I did—I had no reason to think otherwise.

Cross-examined by Mr Leycester.

Q. Did his pensiveness shew a want of reason ?——A. No—but I have frequently seen him pensive in company while others were chearful.

Court—Were you a neighbour to the prisoner at the time of the accident ?——A. I was not.

Court—Then you did not know his manners, nor have seen him, of late years.——A. Yes, I have seen him when he has been on a visit at his father's ; I went to see him while he was at Rugby.

Court—Did you then think him totally deranged in his mind ?——A. I did not ; but I thought there was something particular in his pensiveness.

Court—Did you think it a pensiveness arising from disappointment in love ?——A. It was evidently a weight on his spirits from something.

Reverend Mr. PATTINSON,

(Examined by Mr. Plumer.)

Q. I believe, Sir, you are minister of Stourbridge.
A.——Yes. How

Q. How long have you been acquainted with him?
—A. I have been at Stourbridge about 14 years.

Q. Have you known him during the whole of that time?—A. I have.

Q. You have had opportunities in that time of observing his manners and behaviour.—A. Yes—he appeared pensive and grave, but mild in his manners.

Q. Did you observe any thing cruel or fierce in his manners?—A. No, quite the reverse.

Q. When you say quite the reverse, do you mean that he was of a mild, gentle nature?—A. I do.

Q. Then you did not think him one who would do an act of this kind?—A. No, not by any means, I cannot think he would, if in his senses.

Q. You thought him a good moral man?—A. Yes, I did.

Cross examined by Mr. Knowles.

Q. Did he act as a man of sound reason and moral mind would do?—A. He did.

Re-examined by Mr. Plumer.

Q. Did you observe a pensiveness in his manner?
—A. I did, even when a boy.

Q. Different from what you observed in other boys?
—A. Yes, a peculiar pensiveness.

Rev. Mr. SLEATH,

(Examined by Mr. Mills.)

Q. I believe, Sir, you were an assistant at Rugby School when Mr. Oliver was at Rugby?—A. I was.

Q. You recollect Mr. Oliver being at Rugby?
A. Perfectly well.

Q. How many years did you know him there?
A. Between three and four years, all the time he was at Rugby.

I believe

Q I believe immediately after his apprenticeship he went to Rugby?—A. I cannot say.

Q. You were acquainted with him?—A. Yes, well acquainted—I fought his acquaintance.

Q. I suppose there must be something in his manners to induce a person like you to cultivate the acquaintance of so young a man.—A. His manners were conciliating—his temper good.

Q. What was his conduct?—A. He was liberal and good.

Q. To the poor?—A. He was, as I understood, very humane.

Q. During the time you knew him, for three or four years, was that his character?—It was, his general character.

Q. Being of such morals and manners as you have described, are you of opinion he was a man that would do such an act as that of murder?

[*This question objected to by Mr. Leycester.*]

Q. Then tell us, Sir, from the observations you made, if you think he was capable of such an act in his sound senses?—A. I do not.

Court—Do you know that he was ever so deranged in his ideas as not to know good from evil?—A. While I knew him he appeared in his sound and perfect senses.

Mr. THOMAS GODWIN,

(*Examined by Mr. Jervis.*)

Q. Are you sworn?—Yes.

Q. I believe you are a principal potter at Cobridge, in the neighbourhood of Burslem.—A. I am.

Q. Are you acquainted with Mr. Oliver?—A. Yes.

Q. How long have you been acquainted with him?—A. Three or four years.

During

Q. During that time did he attend your family as a surgeon and apothecary?—A. Yes, he did.

Q. What were the observations you made relative to him?—A. I observed him to be very assiduous in his profession.

Q. You were acquainted, you say?—A. Yes.

Q. What was your opinion of his manners and disposition?—A. He was of mild manners and agreeable disposition.

Q. Did you ever hear him express any resentment against Mr. Wood?—A. Never.

Mr. JACOB WARBURTON,

(Examined by Mr. Plumer.)

Q. How long, Sir, have you known Mr. Oliver?—A. About three years.

Q. You live in the neighbourhood of Burslem?—A. Yes, at Cobridge.

Q. Sir, I will just ask you what his character was during that time?—A. I was desirous of his acquaintance from having observed him to be a very humane man: I have seen him at my own house, and at other places.

Q. What did you observe of his manners and behaviour?—A. He was mild and engaging.

Q. His general character was what you have described?—A. It was.

Mr. JOHN CAUSER,

(Examined by Mr. Mills.)

Q. You I believe sir are a surgeon and apothecary at Stourbridge?—A. Yes.

Q. Mr. Oliver was your apprentice?—A. He was.

Q. How long?—A. Five years.

Q. During that time (state to the Jury) what was your opinion of his manners and disposition?—A. I had less altercation and trouble with him than with

G.

any

any other apprentice ; he was of a mild disposition.

Q. You know his family?—A. I do.

Q. How long might you know Mr. Milward, Mr. Oliver's maternal grandfather.—A. About 30 years.

Q. How long has he been dead?—A. About 12 years.

Q. You attended him in your medical capacity.—A. I did.

Q. How long did you attend him?—A. About 7 years.

Q. You perhaps knew his state of health before that time?—I did ; my brother attended him.

Q. Did he during the latter part of his life enjoy his health and faculties?—A. He was very healthy.

Mr. Leycester—To what does this evidence tend ; evidence as to his family cannot affect the prisoner,-- it is therefore not admissible.

Court—I am much disinclined to refuse any evidence on the prisoner's behalf.

Mr. Leycester—I do not wish it, my Lord.

Court (to prisoner's counsel)—If you shew a malady of this kind in the family, you will do nothing, unless you can prove the prisoner lunatic at the time he committed the murder.

Mr. Plumer—We wish by our evidence to shew, that he was a mild, moral, religious man, when in his senses ; and that an hereditary disorder of this kind was the cause of his committing that act.

Mr. Mills (to witness)—What was the general observation on Mr. Milward's character?—A. Many people considered him as deranged long before his death, from his being a great schemer.

Q. What do you think as to his senses—was he or not in his perfect mind?—A. For the last half year of his life he was quite out of his mind.

Q. Had he at that time any fever or complaint to which you could impute this effect upon his mind?—A. None.

Q. Mr.

Q. Mr. Causer, were you acquainted with his daughter, Miss Elizabeth Milward, an aunt of the prisoner?—A. I was.

Q. How long?—A. About 30 years.

Q. During that time did you know of any complaint that she lay under;—A. She was quite out of her mind many months.

Q. How long, or how often during the time you knew her was she out of her mind?—A. Many months.

Q. Was it owing to a fever?—A. No, to a disappointment in love.

Q. Did you know the mother of the prisoner?—A. Yes.

Q. Did I understand you right—was she in that way during her whole life, or only a few months?—

A. Only a few months—but during her life she had a considerable degree of nervous affection.

Q. The mother of prisoner, you knew her, how was she?—A. She certainly at some times, had false ideas and false notions, different from other people, particularly in the last year of her life.

Q. Sir, as a professional man, were not those false ideas and false notions proofs of a deranged mind?—

A. They were, arising from a diseased brain.

Q. Do you conceive it necessary to do outrageous acts to constitute insanity, or is not being possessed of false ideas and notions a proof of it.—A. The latter, they are the most frequent.

Cross-examined by Mr Leycester.

Q. Do you mean to say that false ideas and notions are proofs of insanity?—A. Yes, when like her they fancy persons in a room who are not there.

Q. Did Mrs. Oliver think she saw people in a room that were not there?—A. She did.

Q. Then you suppose that with respect to the latter

part of her life, she could not tell right from wrong ?
—A. At times she could not.

Q. Are you of opinion the grandfather and aunt did not know right from wrong ?—A. The aunt once attempted to throw herself from a window.

Re-examined by Mr. Mills.

Q. Was the aunt confined ?—A. She was confined, but not in a madhouse.

Q. In what way was she confined ?—A. In Mr. Oliver's house, in a room, and women to attend, to take care she did not do herself a mischief.

Q. She was confined in Mr. Oliver's house, and had persons to take care of her ?—A. Yes, there was every precaution taken that could be, but when she had intervals of reason, she made me promise that she should not be sent to a mad-house; she said she would never forgive me if she was.

Q. Do you mean to say that the symptoms you have described must be constant, to constitute insanity ?—A. By no means; sometimes they will appear at one time of the day and not at another, sometimes on one day and not on another.

Mr. *Leycester*—A person not in his senses to day, may be in his senses to-morrow ?—A. Yes.

Mr. *Mills*—May not this change be momentary and instantaneous ?—A. It is often momentary and quick, though not observable immediately before.—About six months ago, a man I often attended with a diseased state of brain, called to tell me how well he was recovered, and of his last attack; on his road home it instantly came into his head, how nicely he could hang himself with the bridle on his horse, nor could he tell how to get rid of the inclination to do so.

Mrs. SARAH FORREST,

(Examined by Mr. Jervis.)

Q. I believe, about twenty-six years ago, you went
to

to live with Mr. Milward, Mr. Oliver's grandfather?
—A. I did.

Q. Do you recollect Miss Elizabeth Milward being affected with any disorder?—A. Yes.

Q. What disorder?—A. With madness and a crazy lowness of spirits.

Q. Where and at what time?—A. At Stourbridge, at old Madam Crofts.

Q. She was drinking tea I believe?—A. I cannot say.

Q. How far was this from Mr. Milward's, her father's?—A. About a mile.

Q. Do you recollect how she got home?—A. She was brought to Mr. Oliver's in a chaise.

Q. How far was Mr. Oliver's from her father's?—A. About 100 yards.

Q. Do you recollect who attended her?—A. Mr. Caufer, Mr. Edward Caufer.

Q. Did any one else attend her?—A. Yes, Dr. Steward, of Birmingham.

Q. Was she kept under restraint?—A. Yes.

Q. How long?—A. Three months and upwards.

Q. Where was she confined?—A. In a chamber at Mr. Oliver's.

Q. Were the window's fastened?—A. Yes, fastened and darkened.

Q. Why were they darkened?—A. She was so very ill, she could not bear the light.

Q. Was it bodily or mental illness?—A. Madness.

Q. In what way did she shew it?—A. By raving.

Q. In what manner?—A. She used to call out, "Oh! Barrington, Barrington."

Q. Who was he?—A. A lover who deserted her.

Q. Was she often so?—A. Yes.

Court (to prisoner's Counsel)—Do you adduce this evidence to induce the Jury to believe, that as one in the

the family was insane, all of them must be so?

Mr. Plumer—I think, my Lord, where there is a previous disposition in a person to insane ideas, any thing preying upon the mind will call these ideas into action, and therefore affects these persons more than others.

Miss JANE OLIVER,
AND
CAPTAIN DIXON.

[The evidence of these witnesses went only to prove a particular fact, as to insanity, in a collateral branch of the family, and as the person alluded to is now living, we trust we shall readily be excused from giving their evidence at large.]

Mr. JOSEPH EVANS,

(Examined by Mr. Jervis.)

Q. I believe you are a farmer, near Burslem?—

A. Yes.

Q. Did Mr. Oliver attend a son of your's about a year ago?—A. Yes.

Q. How long did he attend your son for that complaint?—A. About a month.

Court—What complaint?—A. A fever.

Mr. Jervis—Was he regular in his attendance?—A. Yes, and as sociable a man as ever came about a house.

Q. Did he call at your house about a fortnight before the unfortunate accident happened?—A. He did.

Q. What did he say?—A. Why at first I did not know him, he looked so wild, and stared so with his eyes, he looked quite gazed, I did not know him at first, and did not go to him, but at length, as soon

foon as I knew him, I went to him, and said " Mr. Oliver how do you do," and he said " how do you do Mr. Evans,"—I said, " I suppose you have brought my bill," he said he had, I told him I would call my wife, (she was up stairs) and she should pay him, and he said another time would do, I asked him if he would drink a jug of ale, he said he had no objection, and so we drank three or four.

Q. Why did you remark that?—A. Because when he attended my son he would drink nothing but whey, and now I thought he would have fat up all night, but however, I made some excuse or other and got away, for I was fairly frightened, and he did not stop long with my wife after I left him.

Court—So you thought he was mad, because he liked ale better than whey.

Mr. Ferris—Do you recollect what he said?—

A. Why his answers were very childish in many points.

Q. And he seemed so wild you were afraid to sit up with him?—A. Really Sir, 'tis true.

Cross examined by Mr. Leycester.

Q. How long did you sit up with him?—A. Near two hours.

Q. What time did he come to your house?—

A. May be it was two o'clock or after.

Q. And what time did he leave?—A. About four or five o'clock in the Afternoon.

MARTHA LEA,

(Examined by Mr. Plumer.)

Q. Did you live servant with the prisoner?—A. I did.

Q. Have you occasionally seen him and Mr. Wood together?—A. Yes.

Q. How

Q. How did they appear, friendly or otherwise?
—A. Friendly.

Q. Did you observe by Mr. Wood and Mr. Oliver's manner to each other, that they seemed on good terms?—A. They seemed friendly.

Mr. Leycester—It is admitted they were friendly for some time.

Mr. Plumer—In the latter part of the time you were there, was Mr. Oliver altered in his manners?
—A. Yes, very much.

Q. How was he altered?—A. He had an odd way of looking.

Q. Describe how it was?—A. He would look at me half an hour together, without moving his eyes, at other times he would gaze and look at the window for as much as two hours together.

Q. Was there any object that he looked at?—A. None, but he kept his eyes fixed on the window.

Q. Do you recollect his giving you directions at any time?—A. Yes.

Q. Did he forget these directions or not?—A. Yes, totally, he would deny particular ones, he had given me.

Q. How long after?—A. Once he did in a quarter of an hour after, and at other times in a still less interval.

Q. Was his appetite the same as when you first knew him?—A. No, he eat very little.

Q. Did he frequently sit in the same posture long together?—A. Yes, I have looked in at the door of the parlour when he has been by himself, and seen him sitting in that melancholy way;—he would laugh frequently.

Q. Did you observe this sort of conduct when you first came to him?—A. I had been some time first, when I first came I did not think him so bad, though he was always odd.

Q. You had observed him to be odd?—A. Yes,
and

and when he was telling any thing ever so serious he had this foolish laugh.

(Cross-examined by Mr. Leycester.)

Q. Did he seem as if he were in his senses, or knew what he was about?—A. No.

Q. Did you judge from that, that he was not right?—A. Yes, from that.

Q. Describe your reasons.—A. His odd way of looking--his forgetting his directions, and his laughing.

Q. Mention one instance or more of odd way of acting.—A. He once ordered me to shut the parlour window shutters two hours before it was dark—he then went and sat there by himself.

Q. Do you mean to say he did not know right from wrong?—I thought so, and mentioned it to several persons.

Q. What was it you mentioned to several persons?—A. I said that from these circumstances he must positively be out of his senses.

Q. By “these circumstances,” do you mean what you have now told us.—A. Yes.

Q. Did you observe this when you first went there?—A. No, about three months after I went.

Q. When did you go to live with Mr. Oliver?—A. At the latter end of the year 1794.

Q. Then it was at the beginning of March 1795 that you observed this.—Yes, about March.

Q. When did you observe Mr. Wood and Mr. Oliver to be on friendly terms?—A. The beginning of the year after I went there

Q. Had you seen them together in the last 6 months before the accident?—A. No, not at all.

Q. Did you mention what you say you did to several persons before or after this happen’d?—A. Long before.

(Re-examined by Mr. Plumer.)

Q. You had frequent opportunities of examining him

him more than others ?—A. Yes.

Mr. Leycester—Did you ever see Mr. Wood & Mr. Oliver together since the beginning of 1795 ?—A. No.

Mr. Plumer—At the time you mention, (when the windows were shut) was any one with Mr. Oliver ?—A. No, he sat by himself

Q. You say in the beginning of 1795 you first observed this odd way—did you perceive it more particularly at any time afterwards ?—A. Yes, in the summer.

Mr. Leycester—Mr. Oliver continued in the practice of his profession, did he not ?—A. I believe so.

Miss MARY OLIVER,

(Examined by Mr. Mills.)

Q. You lived with your brother at Burslem in 1796 ?—A. Yes, from March 1796 to January 1797.

Q. Did you observe any particular alteration in your brother's manners during that time ?—A. Yes, when I first went to live with him he was very attentive to me, and used to read to me frequently.

Q. Was he cheerful ?—A. More so than latterly—but he never was cheerful.

Court—I cannot possibly hear the witness ; she must speak louder.

Mr. Mills—My Lord, I will faithfully repeat what she says.

Court—I do not doubt that, but she ought to let the Jury hear her ; if she wishes to be heard she should take away that screen. [*Miss Oliver wore a veil.*]

Mr. Leycester—We cannot ask that. [*Miss Oliver seemed much affected.*]

Mr. Mills—At what time did you perceive any alteration in your brother, and what was that alteration.—A. In about six months he grew more gloomy, and left off reading to me.

Did

Q. Did he walk with you and court your company as before?—No.

Q. Did you observe his looks?—A. He would fix his eyes on me for a long time together, and not speak.

Q. Did you observe to him that he had done so.—A. I did.

Q. What did he then say.—A. He did not know that he had done it.

Q. Was it only once or frequently that he did so.—A. I only recollect one particular time.

Court---When she observed this did she apply for any medical assistance?—No.

Mr. Mills---Did you hear of his having any bodily complaint.—A. Not at all.

Q. Was he sober at the time you mention.—A. Perfectly so.

Q. Do you recollect his giving you a guinea the Monday evening before the accident---you were at Mr. Cotton's of Burslem.—A. He came to me there, and called me out; it was dark, I could not see how he looked; he gave me a guinea, and said a man from Cobridge would call for it.

Q. What did you say.—A. I asked him what was the person's name.

Q. Did he tell you.—A. He said, "never mind, never mind," and seemed in great confusion.

Q. Did any one call for the guinea.—I gave it him again on the Wednesday; no one had called for it.

Q. Did he give it you again?—A. He did on Thursday.

Q. Did he say any thing to you at that time?—A. He told me the same as he did on Monday, but would not tell the person's name.

Q. Do you recollect any thing else at that time?—A. No one had called for the guinea: I remarked that he seemed in high spirits.

Q. On Thursday night he sat up I believe? —

A. No, on Monday night he sat up all night at cards, and made company do the same.

Q. Was he accustomed to do so?—A. No, I never knew him do so before.

Q. Do you recollect a person bringing a sick child to him?—Yes, on Thursday.

Q. You knew his usual practice, what passed at this time?—A. He was usually very attentive, he desired the woman to bring the child again, she asked for something for it, he did not give her any thing, but desired she would call another day.

Q. Did you say any thing to him?—I asked what was the matter with it; he said it would not live long.

Q. So, tho' he thought it would not live long, he gave it nothing?—A. No, he desired the woman to call again in a few days or a week.

Q. Was there any alteration in his manner then —

A. He was quite in high spirits.

Mr. RICHARD PARSONS.

(Examined by Mr. Jervis.)

Q. Was not Mr. Oliver surgeon to a club of which you were a member?—A. Yes.

Q. Do you remember sending for him in January last?—Yes.

Q. Do you recollect asking him if bleeding would be of service to you?—A. Yes, about a fortnight after he attended me I did.

Q. What did he say?—A. "Bleed, Bleed," in a muttering tone of voice, and seemed much agitated.

Q. This was a week before the accident I believe?—A. Yes.

Q. What did he say more—A. "Get a fillet."

Q. What did you do—A. My wife went for a fillet, I was afraid of staying in the house with him myself, and got a neighbour to step in.

Q. You

Q. You sent for a neighbour, who was he?——

A. Bernard Huxley.

Q. What did Mr. Oliver do?---A. He bled me, he cut with his lancet and struck it into my arm with great force.

Q. What did he do more?---A. He left me to bind the arm, I did, he turned to a print which hung up and looked at that.

Q. What was that print? ---A. The execution of the king of France.

Q. Did he give you any directions?---A. No, nor ordered any medicines, he left me to bind up my arm myself.

Q. Did he appear in his perfect mind?----A. Certainly not.

Q. Did you then think him not in his right mind?---A. Certainly, or I should not have sent for a neighbour to be with me.

Q. Did you see him afterwards?---A. In a few days I did, he looked at me and at the print, he said nothing I could understand.

Q. How did he appear on that day?-----A. The same as before.

Court—Did he appear out of his mind?--A. He did, it struck me so at the time.

Mr. Jervis—Did he send you any medicines after?—A. Yes, but no directions with them, so I did not take them.

Q. Now from the whole you observed those days were you of opinion he was out of his mind?——A. I was so then.

Q. Had you seen him before?——A. Yes.

Q. How was he then?---A. He behaved well then.

Q. When was that?——A. In July 1796.

Cross examined by Mr. Knowles.

Q. Did you think him out of his mind?---A. Yes.
And

Q. And did you suffer him whom you thought a madman to bleed you?—A. My neighbour held my arm.

Q. So if your neighbour held your arm you thought yourself safe! I think, my friend, you could scarce be in your senses yourself, to let one you thought mad perform such an operation---did you apply to any one else?—A. No; I took no medicines.

Q. Did you apply to any one besides the prisoner, before he was taken into custody.---A. No, I did not.

Mrs. SARAH HAYWOOD,

(Examined by Mr. Plumer.)

Q. Did Mr. Oliver attend your family before this affair?—A. Yes, near four years.

Q. Do you recollect his being at your house the Friday before?—A. Yes.

Q. Did he attend to his business as usual?—A. He was low, and did not attend the child as usual.

Q. Did he give you any directions;—A. Yes.

Q. What were they?—A. They were different to what he had before given me.

Q. Directly the reverse?—A. Yes, directly so:

Q. And as to the child, did he pay the same attention as before?—A. Not as before.

Q. Did he visit it again?—A. He attended it on the Wednesday after; the child had been inoculated on the Friday.

Q. Did he attend again?—A. I never saw him after.

Q. Did the child require attendance?—A. No.

Q. Did he attend as usual?—A. I expected him the day before.

Q. Why?—Because it is usual.

Q. How do you know?—A. I have nursed several children, he was always punctual before.

On

Q. On the Wednesday did you observe any thing particular?—A. I did not observe any thing particular then.

Q. Did you complain of his not attending the day before?—A. Yes.

Q. What did he say?—A. That he thought he would not attend till the infection had taken place.

Q. Had it done so?—A. Yes, on the Tuesday.

Q. Did you observe how he was then?—A. Very low.

Dr. ARNOLD.

Examined by Mr. Mills.

[The Editor trusts he shall be excused should the evidence of Dr. Arnold be in a slight degree curtailed, and particularly so as the Dr. perused the same previous to its going to press, and declared himself satisfied with its correctness in point of substance and meaning, if not in words.—The very low voice in which Dr. Arnold delivered his evidence, rendered it impossible to hear every word.]

Q. I believe Sir, you live at Leicester.—A. I do.

Q. You keep a house for the reception of insane persons?—A. Yes.

Q. You have for several years?—A. Yes, for more than 30 years.

Q. You have also had many private applications?—A. I have.

Q. You have then studied, and have had great experience in the symptoms of this complaint?—A. Yes.

Q. You have seen Mr. Oliver?—A. Yes.

Q. I believe it was the day after his trial was put off at the last assizes?—A. It was in the evening of the same day.

You

Q. You then examined him?—A. Yes, I was with him about an hour.

Q. Please to say what you observed relative to him at that time?—A. I observed an uncommon gloominess of countenance, and peculiar look about his eyes, which I always consider as a mark of insanity.

Q. These were the first remarks you made on his countenance?—A. They were.

Q. Did you examine him by conversation?—A. Dr. Johnson was also there; I examined his state of mind by putting such questions as I thought would be most likely to discover the derangement of his mind if any existed.

Q. How did he appear?—A. He had no other appearance of being affected; I mean no other appearance of insanity, than the gloominess I have mentioned, till he was asked a question as to Miss Wood. [The Dr. here mentioned that he had made notes at the time, and wished to refresh his memory by them. He then, on referring to them, stated the following as his observations at the time.] Mr. Oliver's appearance at first was gloomy, but he was not peculiarly agitated till Miss Wood was mentioned; he then spoke of suicide—he said (when it was mentioned that Miss Wood would marry Mr. Towers) that he was determined to destroy himself; he said this with a sudden and violent agitation; his countenance was convulsed,—his eyes rolled;—this was followed by an inflexibility of muscles, and a peculiar drawing and biting of his lips.

Court—Did you think him in his perfect senses?—A. I did not.

Mr. Mills—Describe your observations?—A. Many insane people will talk very well, and appear composed, till some subject is mentioned which particularly affects them, then their insanity comes into action.

From

Q. From what you observed, had you any doubt of his being insane?—A. None.

Q. Did you leave the gaol with that conviction?—A. I did.

Q. You have heard the evidence relative to the family, what is your opinion of that evidence?

(*Mr. Knowles objected to this question.—Mr. Mills explained.*)

Q. Do you know of such a thing as hereditary madness?—A. I certainly do.

Q. In what situation is the person affected, or how would you describe it?—A. In this case, where there are so many proofs given of its being in the family——

Court—Give your opinion from what you yourself observed.—A. I have no doubt of it being a predisposing cause; I have had 3 or 4 of the same family under my care.

Q. Is that likely to be called out by any passion?—A. It is liable to be called out by any passion, and more particularly that of love.

Q. This cause having been called forth, will it be constant or at intervals?—A. More frequently (be it hereditary or not) they have intervals when they are capable of conversing and reasoning, though in a high degree of insanity.

Q. These intervals of apparent rationality are sometimes, I suppose, so complete, that you have been deceived (notwithstanding your great experience) by supposing a man sane, who has suddenly become outrageous?—A. I have, and have been often in danger; I was once near losing my life through it; it is impossible to be always guarded against it, so uncertain and sudden are its effects.

Q. But to common observers may they not appear as if in their right minds?—A. They may, and often do.

Counsel—I will mention a case well known to all here, that of Mrs. Margaret Nicholson—she made her way as if to present a petition—(*Stopped by Mr. LEYCESTER.*)

Q, Do not cases of that kind frequently happen not noticed by a common observer?—A. Frequently.

Q. Tell me whether, on hearing what passed at the time of the unfortunate accident, you think Mr. Oliver might not have been in that state of mind, without being observed by Mr. Wood, jun. or Mr. Bathwell—(*Objected to by Mr. KNOWLES.*)

COURT—It seems as if Dr. Arnold was to judge of the situation, and not the Jury.

Mr. MILLS—Do you know of any instance of carrying on business under this derangement?—I will mention the well-known one of Dr. Ash—(*Objected to by Mr. LEYCESTER.*)

COURT—This case must be judged by its own merits, not the merits of other cases.

Mr. MILLS.—May a man be in this situation and yet carry on a professional business?—A. I have known an instance in the medical profession, where the insanity was at the same time very great.

Q. I would ask you if outrageous and continual acts are necessary to constitute insanity?—A. No, it is more frequently otherwise.

COURT—I do not see the effect of this evidence, you are asking to what Dr. Arnold observed in the March after the fact.—Mr. PLUMER mentioned that in Donellan's case several professional gentlemen were examined, to prove the facts which had happened before, by observations after, and that he conceived they had the same right to ask Dr. Arnold.

Mr. LEYCESTER—There cannot be two cases more different.

The COURT—observed the question in that case was as to a particular poison, that of laurel leaf, and therefore medical opinion was necessary.

Mr.

Mr. LEYCESTER—The question is not whether the man might be out of his senses, but if he *was* out of his senses.

Mr. LEYCESTER to Dr. ARNOLD.—At whose application did you come to Stafford at the last assizes?

—A. At that of his relations.

Q. The examination was after he was arraigned?—

A. Yes.

Q. The object was to find out that he was deranged?—A. It certainly was.

COURT—Was the trial postponed on Dr. Arnold's account?—Mr. MILLS. No, my Lord, from the absence of J. E. Poole, a material witness, and on an affidavit to that effect it was postponed.

Mr. LEYCESTER—Did you attend here to give evidence on the trial at that time?—A. I did.

Q. Being brought here for that purpose, you went to examine him after his arraignment?—I did, I believe the same day.

Q. You went wishing to find him insane.—

A. I went to see him for that purpose, to discover whether he was, or was not insane, but wished to discover nothing but the truth.

Q. Did he know you or Dr. Johnstone?—A. Not me, but he did know Dr. Johnstone. [It was here mentioned that Dr. Johnstone came with Dr. Parr.]

Q. I suppose you do not mean to say that gloominess, and the peculiarity you observed about the eyes, would alone have convinced you of his insanity?—

A. A person not insane may have an appearance of gloominess in the countenance, and a peculiar appearance about the eyes, but not such appearances as these. It will be allowed, I suppose, that I can distinguish the difference, and discover insanity in the appearances, more readily than others who have not had the same experience.

Q. Then you mean to say from the appearances he

was insane?—A. I mean that the appearance of his countenance and his eyes was such as I never saw in any one who was not insane.

Court. Do you mean to say he was perfectly insane, or only lunatic?—A. I conceive the disorder to be permanent, though apparently he was at times rational. I have known many instances of insane persons who were at times capable of reasoning in a very high degree.

Court. Do you mean to say he could not distinguish right from wrong?—A. An insane person may reason well, and be capable of knowing right from wrong; but by the sudden impulse of a moment may be induced to do wrong, by a false judgment, on erroneous principles.

Mr. *Leicester*—Can an insane person judge between right and wrong?—A. An insane person may act right, he conceives ideas and notions on which he proceeds, and whether he acts right or wrong he is governed by those ideas.

Q. You then suppose it proceeds from erroneous ideas, where a man may act right on wrong principles?—A. In some cases it does.

Q. You mean there are some insane who have some one erroneous notion, and act wholly upon that notion?—A. It may be on a variety of notions.

Q. May not the family or persons residing with them discover it?—A. Perhaps not.

Q. Perhaps it may never be discovered?—A. It may very rarely be discovered.

Q. You talked to this Gentleman of Miss Wood's going to be married, who mentioned that?—A. I think Dr. Johnstone did.

Court—I think Mr. Leicester you had better ask if the witness had heard of any attention being paid by the prisoner to Miss Wood, or if he had any conversation with the prisoner's relations, which led him to ask that question.

Mr.

Mr. *Leycester*—I suppose your object was to ask what you thought most likely to agitate him?—
A. Certainly.

Q. I understood he conversed with you rationally, you only supposed insanity from the gloominess you mentioned.—A. From that and other circumstances.

Q. Might not such a question agitate a person in his perfect senses?—A. Not in the manner it affected him; there were other reasons I had for supposing him insane,—he appeared to have no regard for his own life and no consciousness of guilt.

Q. Was the act mentioned, and from that circumstance, and that of Miss Wood together, did he seem agitated?—A. I mean to say he did not appear at all affected when Mr. Wood was mentioned, but said he was a worthy respectable man.

Mr. *MILLS*—I wish to ask if you went with a wish to find him insane.—A. Not with a Wish.

Mr. *LEYCESTER*—A little with?—A. If he were so, it was no other wish than every humane man must have, to find him guiltless.

Dr. JOHNSTONE,

(*Examined by Mr. Plumer.*)

Q. I believe, Sir, you are a physician in Birmingham.—A. I am.

Q. You have frequently had patients of this description?—A. Very frequently.

Q. How long may you have had experience in that way?—A. 15 or 16 years.

Q. Then you have seen a variety of cases?—A. I have.

Q. Did you go with Dr. Arnold to visit the prisoner?—A. I did.

Q. Tell us, what was his appearance?—A. He appeared composed, though his countenance was dark
and

and gloomy ; he frequently turned his eyes askance upon us, and had a suspicious look common to insane persons. He conversed with indifference on every other subject, except that of MARIA, as he called Miss Wood, and her marriage with Mr. Towers, when his countenance was greatly agitated and convulsed, and he appeared completely maniacal.

Q. Then on other subjects he appeared indifferent ?

A. Perfectly so ;--indifferent on the subject of his appearance that day in court---indifferent on the subject of Mr. Wood's death, and on that of his own.

Q. Did you ever observe such appearances in persons not insane ?—A. Never.

Q. Can you venture to pronounce from your experience, that he was then insane ?—A. It is the firm and decided conviction of my mind that he was so.

Q. Has any thing since happened to confirm, or make this doubtful to you ?—A. I saw him in the goal yesterday ; he at first seemed more collected than before ; said that he had heard from Miss Wood's aunt, that Miss Wood said she would never marry, which had made him easier ; but upon urging the subject, he resumed the same maniacal appearances I had observed in my former visits.

Q. Are persons insane capable of reasoning at times ?—A. I never saw a case in which they were not, and I believe they are so in all cases. Insane persons reason right from wrong premises, and therefore it is that their conclusions and conduct are wrong.

Q. Is it compatible with a high degree of insanity to reason right ?—A. I knew a Gentleman in my own profession, capable of pursuing his business, and trusted in it, though highly insane. I have frequently been in consultation with him, when he has reasoned justly on the disorder of his patient, and written his prescription with judgment, though soon afterwards it became necessary to confine him.

Q. Are

Q. Are there times when the insanity is not in action?—A. Most undoubtedly : Insanity is a disease of the brain, which is only called into action by certain trains of ideas ; it is only when these arise, that insanity appears.

Court—Have you observed this to be the case in hereditary insanity?—Certainly : Physicians are generally agreed, that it gives a pre-disposition to the disorder, which may be called into action, by every thing that affects or agitates the mind of man.

Cross examined by Mr. Knowles.

Q. Were you called upon to see the prisoner before, or recently after this transaction?—A. I was not, till the last assizes.

Q. Can you conceive there could be a more irritating subject than that which has been mentioned, even to a person in sound mind?—A. Would not that of his appearance in court, and that of an ignominious death be much more so?

Q. You think so?—A. I do.

Mr. Plumer—When a person is brought to you as mad, do you not, in order to discover the symptoms, touch on that topic which is most likely to agitate him?—A. Certainly. I know of no other mode by which to ascertain the nature of the disorder.

The

(The evidence for the prisoner closed with the examination of Dr. Johnstone ; after which the following witnesses were called on behalf of the prosecution, in order to rebut the proofs of insanity.)

Mr. WILLIAM LANEY.

(Examined by Mr. Leycester.)

Q. You, Sir, I believe, are an attorney ?—A. Yes.

Q. How long have you known Mr. Oliver ?—

A. About two years.

Q. Has he attended you as a surgeon ?—A. Yes, he has.

Q. Do you recollect seeing him on the 26th of January last ?—A. I do.

Q. How long was he with you ?—A. He called upon me about one o'clock.

Q. Did he dine with you ?—A. Yes, in public company.

Q. How long were you together ?—A. From one till four.

Q. Without asking you what were the particulars of your conversation together, will you tell us whether he did or did not appear in his perfect senses ?—A. Entirely so.

Q. Did you observe any thing particular in his behaviour at that time ?—A. He had always something peculiar in his manner, but there was nothing more so then than at other times.

Q. I need hardly ask you, if he was in your judgment capable of discerning right from wrong ?—A. In my judgment he was perfectly so.

Q. You say there was always something peculiar in his manner, in what way did that peculiarity appear ?—He was very reserved in his manners, particularly before strangers.

Q. Was that peculiarity or reservedness such as might

might lead you to suspect that he was not in his senses?—A. If I had had a suspicion of that kind, I certainly should not have employed him in his profession.

(Cross-examined by Mr. Plumer.)

Q. Mr. Laney, you I understand are an attorney; now tell me, have you been usually conversant with persons insane?—A. I have seen many.

Q. That may be, but I do not suppose that you have made those particular observations that have been made for a series of years by Dr. Arnold and Dr. Johnstone. You do not imagine you can discover insanity equally certain with them who have had so much experience?—A. No, I have observed them as persons in general do.

Q. Were you desired, or had you any reason to take particular notice of Mr. Oliver at that time?—A. No, none.

Q. Were any other persons present at the time that you were with the prisoner?—A. Yes, several—*(the witness named several in company.)*

Q. Were any strangers present?—A. One person was a stranger.

Q. Have you observed that reservedness before strangers is frequently attendant on insane persons?—A. I have.

Mr. Leycester—Did you call on Mr. Oliver on business in his profession?—A. I did.

Mr. Plumer—That is no proof of his sanity—we have just heard of a medical gentleman attending to his profession properly, though highly insane.

Mr. THEOPHILUS SMITH.

(Examined by Mr. Knowles.)

Q. How long have you known the prisoner?—

A. Nine or twelve months.

K

Q. Did

Q. Did you see him the day before the accident?
—A. Yes, about ten o'clock in the morning.

Q. Had you any conversation with him?—A. Yes.

Q. How long were you conversing together?—

A. It might be three or four minutes.

Q. Did you perceive any thing particular or extraordinary in his manner at that time?—A. I did not.

Q. Had you frequently been in his company?—

A. Not very frequently—I met him sometimes at an oyster club.

Q. Did you suppose him to be insane?—A. Certainly not.

Q. Did you ever hear any one say so

Mr. Mills—My learned friend has made objections to several questions, and has now asked one so entirely out of order, that I must certainly object to it.—
(*The question was abandoned.*)

Cross examined by Mr. Mills.

Q. The conversation between you and Mr. Oliver, on the 26th of January, you say was very short, not more than a few minutes.—A. No, about three minutes.

Mr. BENJAMIN GODWIN.

(*Examined by Mr. Ryder.*)

Q. How long have you known the prisoner?—
A. Three or four years.

Q. Previous to the accident?—A. Yes.

Q. Did you see him at any time at an oyster club?
—A. Yes, several times.

Q. When was the last time?—A. The 26th of January last.

Q. How long were you with him?—A. From six to eleven at night.

Q. Was

Q. Was he in your company all that time?—

A. No, he was out for some time, it might be from half an hour to an hour.

Q. Did he return?—A. Yes, and staid till eleven o'clock.

Q. At what time did the club break up?—

A. About that time—I went with Mr. Oliver till within 40 or 50 yards of his own house.

Q. Did you observe any thing particular in his appearance?—A. Not at all.

Q. Had you then or indeed at any time reason to think he was insane?—A. I had not.

Q. I will only trouble you with one more question—Did Mr. Oliver attend your family professionally?—A. He did.

Mr. GEORGE ROGERS.

(Examined by Mr. Leycester.)

Q. Were you acquainted with Mr. Oliver, and for how long a time?—A. Yes, about four years.

Q. Did you see him on the 26th of January last?—A. Yes, at the oyster club.

Q. How long did you continue together?—A. From early in the evening till eleven.

Q. Did he appear in his perfect mind?—A. The same as usual, I could perceive no difference in him.

Q. During your acquaintance with him, did you ever suppose that he was a man who could not distinguish between right and wrong?—A. I never did.

Q. Had you a doubt or suspicion of that kind?—A. None in the least.

Cross-examined by Mr. Plumer.

Q. You are a potter, I believe.—A. Yes.

Q. Not much conversant with insane persons?—A. Very little.

Q. Did you take any particular notice of Mr. Oliver that day?—A. I did not.

Mr. Leycester—My Lord, this is the whole of our case.

HIS LORDSHIP

STATED THE INDICTMENT TO THE JURY ;

After which he proceeded to say, that he should state the evidence to them as fully and particularly as he could, but as it was very long, he might have made some mistakes ; he trusted he had not, and if he had, that they were not material ones.—In justification of the prisoner, it is said, that he acted, not of himself, or according to his own will, but at the time was insane, and acted under the dominion of madness.—The law upon this plea he should state to them as laid down by that excellent legal authority, Lord Chief Justice Hale—who says, there are two species of insanity, the one partial—the other total ;—the partial one will not excuse, unless while under its dominion, as at times the person is sane ;—to draw the precise line when affected, is extremely difficult, and sometimes impossible.—From the evidence laid before them, and judging from the circumstances, it is for the Jury to determine.—This his Lordship stated to be Judge Hale's opinion, and told the Jury they would therefore see that it was their duty to consider of the evidence they had, and which he would repeat to them, whether the prisoner at the bar, at the time of committing the offence for which he stood there, had or had not sense sufficient, and was of capacity to judge between right and wrong.

He again referred to Lord Chief Justice Hale, who says, if insanity is perfect and constant, the person
afflicted

afflicted is not responsible for what he does, because he is impelled to act by a force he cannot resist;—his mind is under the dominion of a power greater than reason, and therefore he is not capable of judging whether he acts right or commits wrong; but he distinguishes betwixt that insanity which is fixed and permanent, and that of lunacy, which is at intervals.—In this latter case the Jury are to find whether at the time the act was committed, the person could tell right from wrong;—“if in the present case the prisoner was in your opinion able to distinguish, you will not let your judgment be impelled by that force which did not then act on the gentleman himself.”—If at the time he was under the dominion of madness, he is not guilty—the same as if constantly and permanently mad;—but if in a lucid interval a crime like this is committed, the person committing it is guilty, and is punished in the same manner as if constantly sane and in his perfect senses.

One excuse in such crimes is, that of Infancy, where the person is not supposed to have attained knowledge of good and evil, for wherever there is a defect of the will that defect is an excuse:—another species of excuse is that of an idiot, or lunatic.—The first is always excused, because there is a continual want of the senses; the latter is only excused while under the dominion of a power superior to reason, and acting independent of it.

The law presumes the offence to be always committed by a person in his senses, unless the contrary is shewn by evidence.

These (Gentlemen) seems to be the leading features of the whole law necessary to state to you in this case.—You will form your judgment from the evidence, and as circumstances shall appear.

His Lordship then summed up the evidence, and made several comments thereon; the principal purport

port of which were, that there was no actual proof of the insanity of Mr. Oliver at the time of the unfortunate accident.

After which he informed the Jury, that they were to take all the circumstances into consideration, and to form their opinion whether the prisoner was capable of judging between right and wrong, or not.—If he was, they would find him Guilty.—If affected by permanent madness, or by madness at that time, they would find him Not Guilty.—He requested they would give the whole their greatest attention.

He desired they would observe, that five days before the accident the prisoner borrowed a pair of pistols, and moulds to make bullets;—that on the 27th of January he kills the deceased with those pistols.—So soon as the act is done, he expresses his concern for the misery he had brought on that family and himself;—he afterwards forms a medical judgment on the wound given to the deceased, by saying that brandy could do no good, nor any thing save him.—Joining these circumstances with what else they had heard, if in their consciences they could acquit the prisoner, by supposing him insane, they would find him *Not Guilty*;—but if they could not be convinced of that, compassion for the situation of the prisoner, or his family, ought not to weigh against their duty, and however disagreeable, they must pronounce him GUILTY.

The Jury consulted together about a quarter of an hour, and brought in their verdict—GUILTY.

THE FOLLOWING
 INTERESTING PARTICULARS
 RELATING TO THE
 LAST MOMENTS OF MR. OLIVER,
 Are Copied from the PUBLIC PAPERS.

Stafford, Sept. 2.

On Monday morning at half past ten o'clock, the platform erected over the entrance of the New Gaol, for the execution of criminals, exhibited the most solemn and interesting scene that has occurred since the building of the prison. Mr. Thomas Millward Oliver, a young man, well descended, well educated, and respectable in the exercise of a liberal profession, was then brought out to suffer death, for the Murder of Mr. John Wood.

Of the deceased, Mr. Oliver frequently spoke in terms of great esteem; but upon all occasions he steadily and calmly denied his having formed, or felt, even for one moment, the slightest intention against the life of Mr. Wood. The same composure of mind, and the same firmness of behaviour, which he preserved during his trial, continued through the whole of that awful interval which passed between his sentence and his execution. In his conversation with the Rev. Mr. Booker & the Rev. Dr. Parr, who frequently attended him in his cell, he was often serious, but without dejection and sometimes cheerful, but without levity. His devotion was rational and fervent; and his spirit was full of that Charity, which the great Apostle hath so luminously described, and so pathetically enforced.

On Monday morning he was engaged in most solemn discourse and in private prayer, with the two friends above mentioned, and about a quarter before ten, he came down with them into the Chapel,

Chapel, where the Holy Sacrament was administered to him by the Rev. Mr. Dickenson, Rector of Stafford, and the Rev. Mr. Rathbone, Ordinary of the Prison. It was observed that while the Services of Religion were performing, the colour of his face never changed—that his hands never shook—and that on receiving the Cup from Mr. Dickenson, he shed one tear only. When his arms had been pinioned in the Gaoler's Office, he was accompanied by the Reverend Mr. Booker to the top of the Porter's Lodge, where they immediately knelt down together and repeated the Lord's Prayer: Mr. Booker, after a short commendatory Prayer, retired, and Mr. Oliver, with firmness in his step, and serenity in his countenance, went up to the stage, on which he respectfully bowed to the spectators; and having stood nearly three minutes quite undismayed, was then launched into Eternity. His body about noon was conveyed to the Infirmary; it was opened according to the sentence of the Law, by Mr. Hughes, one of the Surgeons of the Hospital, in the presence of Mr. Fowke the Apothecary, and other Medical Assistants; and such persons as were desirous to view it were admitted through the Gates of the Infirmary for that purpose.

By his courteous deportment and exemplary regularity, he had conciliated the affections of all his fellow-prisoners—of Mr. Harris, the worthy Keeper of the Gaol—and his attendants. Sorrow so poignant, & so general, was never seen among them before on any similar occasion; and in regard to those persons who stood without the prison, as spectators of the melancholy scene, their tears and their sighs were unequivocal proofs of their compassion for the sufferer.

